Public Administration

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The Worst of Both Worlds?

When the various Hospital Boards were established considerable stress was laid on their independent status. They were not to be merely regional manifestations of the Ministry of Health. They were therefore set up as statutory corporations. To some people they were examples of the contemporary emphasis on the public corporation and took their place alongside such bodies as the National Coal Board. And it must be confessed that there are some people who saw them as bodies which would get the best of all possible worlds: as independent in their sphere, as is, say, the Railway Executive, and therefore superior to either the normal regional offices of the Government Department or the Local Authority subject to detailed Departmental control. And superior also to the ordinary Local Authority in that they were composed of experts and not elected representatives, nor would they be cramped by either the paucity of local taxation or the parsimony of local benefactors. Thus it was supposed that the constitutional stage was set for some astonishing expansion and improvement in the hospital services. The rosy vision is now giving way to sombre doubts.

It should have been clear from the outset that no public body which relies on the Exchequer for virtually the whole of its income can hope to escape detailed financial control. This point was temporarily obscured by the first "honeymoon" year during which, partly under the influence of a loose attitude towards public spending and partly because little else was administratively practicable, the Boards were given their heads over finance. But immediately the budgetary position tightened, and it is now very tight, the Boards were bound to find themselves in a strait jacket. Under any circumstances it is difficult to see how they can be given the right to draw to an unlimited extent on the Exchequer or can avoid going through the hoops which the ordinary Department has to go through before it can obtain extra money, or escape the control exercised over a Local Authority in receipt of an Exchequer grant of 100 per cent.

The public corporation conducting a trading undertaking is not faced with this problem. It has its revenue from sales and providing any proposed expenditure is likely to be covered by the consequent sales income, there is no question of either Treasury or Departmental financial control. We are referring here to current and not capital expenditure. Even a Local Authority notwithstanding the many detailed controls to which it is subject can still spend its own money providing it is willing to levy the necessary rate poundage. And if the Comptroller and Auditor-General has not the powers of the District Audit he is certainly a formidable person and one to which Departments, and therefore the Boards, have to pay full regard.

But there is even a stranger story to tell on the side of the purchase of land and buildings. All such transactions must go through the Ministry of Health.

Moreover, if the transaction is for more than £2,000, the Ministry must secure the approval of the Treasury. Thus a Board wishing to buy a house costing £5,000 for a Nurses' Hostel gets its officers to draw up a proposal and sends this off to the Ministry of Health. The Ministry officials go over the scheme and modifications may or may not be proposed. After this hurdle the proposal goes to the Treasury. It is to be hoped that the Ministers and Permanent Secretaries of the Departments concerned have regular statistics put before them of the cost of the administrative and professional overheads incurred in respect of each proposal and of the period it takes from start to completion of each purchase.

A good indication of the current trend is that the Ministry has now authorised its regional officers to sit in on proceedings of all hospital authorities and those authorities have to provide the Ministry's regional officers with copies of the minutes of all their meetings.

Finally it must be noticed that a corporate device of this particular kind does not enable the Minister to avoid Questions and such other detailed methods of Parliamentary control—a " virtue " generally claimed for the public corporation. Staff in the Ministry must be used for the purpose of handling the letters of Members of Parliament and for other detailed matters.

In some quarters it has been suggested that the Ministry is exercising too detailed a control over the Hospital Boards, and that it should content itself with general questions of policy. In part this complaint is based on a misunderstanding of the financial position of the Boards and of the statutory responsibilities of the Minister. It is to be hoped that the Committee of the Ministry recently set up to look at the organisation of the hospital service will be able to take a wide view of their terms of reference, and not feel so dependent on the Ministry as to be unable to say openly what they think is wrong. But whatever the Committee's report, there is already sufficient indication that local boards appointed from Whitehall, without any close link with the representative life of the locality and dependent on the Exchequer for their finances, are in danger of giving us the merits neither of local government nor of the public trading corporation.

Our Contributors

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Gwilym Gibbon Research Fellowship

Nuffield College have elected Mr. A. E. Hickinbotham to be the Gwilym Gibbon Research Fellow for 1950-51. Mr. Hickinbottom is an Assistant Secretary, Local Government Division, Ministry of Health. His proposed subject of study is the relationships between central and local government in the administration of social services by local authorities.

The Development of the Organisation of the British Transport Commission*

By Lord Hurcomb, G.C.B., K.B.E.

FORMIDABLE problems of organisation arose out of the decisions of policy to co-ordinate and, so far as possible, integrate all branches of surface long-distance transport of passenger and goods in Great Britain and, as a means to that end, to vest the ownership of the undertakings of the railways and canal companies immediately in a new public body and to give that body powers to acquire, or deal with, other transport undertakings by a variety of subsequent procedures.

One course, which might have commended itself in some quarters, was to create at once a number of Regional Transport Boards to operate all forms of transport in each Region under the general direction of some co-ordinating body.

It was probably felt that this course, while at first sight offering an obvious means of integrating transport, might have some undesirable consequences. The only existing framework for such a structure was the railway managements, which would have had thrown upon them a new complex of duties. The unification of the railway system itself would have been impeded. Moreover, it would have been apprehended by the smaller and less highly organised elements of transport that, in such a set-up, the railways would be bound to exercise an unduly dominating influence through their great resources, long experience and highly-trained staff, whatever attempts might be made to introduce new blood. The active canals outside railway ownership might have feared that they would suffer the fate of those which had been taken over by the Railway Companies long ago, though historically it is, in general, untrue to say, as is often alleged, that the railways bought up the canals in order to kill them. They were usually forced to take the canals over as part of the price of obtaining their own powers. It would certainly have been felt by the new and growing industry of road transport that the special contribution which it can make to an integrated transport system would not be afforded full scope under such a type of organisation.

However that may be, the scheme of the Transport Act is based on an alternative plan, and required the creation of a number of separate and specialised managements, called Executives, to assist the British Transport Commission, as their agents, in dealing with distinct types of transport and allied activities. This plan was likely to win a greater measure of acceptance and certainly avoided the delays and dislocations which would have resulted from an attempt to re-organise all transport at the outset under a number of new regional boards responsible for all forms of transport.

In London's passenger transport, the transition from the old London Passenger Transport Board to a new London Transport Executive was simple and was greatly helped by continuity of personnel. It was necessary to sort out, as between the main-line railways and the London Transport Executive, the many bits and pieces of jointly owned lines which had remained undealt with since 1921 because of the obstacle of separate financial interests. But once the whole of these suburban railways vested in the British Transport Commission, their redistribution could be made with sole regard to economy and efficiency of working, and this was quickly done.

The main-line railways which, during the war, had been to some extent co-ordinated by the Railway Executive Committee acting as an agent of the Government, passed into the ownership of the British Transport Commission who delegated their operation and management to the new Railway Executive, under a revised form of regional subdivisions, of which the main features came into operation on the vesting date.

* Vice-Presidential Address to Annual Meeting of the Institute, April 21st, 1950.

Note in passing that this, like the other Executives, is not an Executive Committee. It does not function as a group of men remaining autonomous in regard to their several lines and responsible for and to separate interests, but is a body charged with the collective responsibility of dealing with the railways as a completely unified system. At the same time, the Railway Executive was relieved by the transfer of certain activities not directly related to railway operation. Here the policy of entrusting specialised functions to special bodies was carried to logical, though always practical, lengths. In the first place, about 820 miles of canals have been transferred to the new Docks and Inland Waterways Executive, as have the commercial harbours formerly in railway ownership. The Commission, however, decided at an early date that the Railway Executive should continue to manage and operate the packet ports, such as Harwich, Folkestone and Holyhead, which are primarily points of connection between our own railway system and those of the Continent or Ireland, their management being integrally bound up with the operation of the railways themselves. For the same reason the Commission decided that the operation and management of the connecting shipping services should remain with the Railway Executive.

The hotels, of which the Commission own 54, were placed in the hands of a separate Executive, as the Act itself contemplated. The treatment of the refreshment rooms at the stations and of the restaurant cars on the trains was a doubtful question, but the decision was that all three of these activities must be regarded, on practical grounds, as part of one catering activity. Their control was, therefore, linked together in the Hotels Executive. The Commission assumed the direct control of the Tourist Agencies, owned by the Railway Companies through shareholding, and also took into their own direct possession the shareholdings of the Railway Companies in a number of important road undertakings, both passenger and goods.

In indicating that specialised Executives should, or might, be set up, it must be presumed that Parliament intended that this specialisation of function should take place and that activities which, if not extraneous to, are yet not essentially part of railway operation would be best entrusted, under the general direction of the Commission, to bodies which could give them undivided attention. The unification of the railways and the reorganisation attendant upon that process, together with the many technical and commercial problems which present themselves for settlement in the next few years, were going to be sufficient to absorb the whole energies of those charged with the management and operation of what remains far the largest and most fundamental element of our transport system.

It is against this statutory background that the structure of British Transport must be viewed. And it is on this general basis that the internal organisation of the British Transport Commission and its various agencies has been built up and developed administratively by the action of the Commission themselves. The detailed organisation was described to this Institute some 18 months ago in an address given by the Chief Secretary to the Commission, Mr. Miles Beevor, and subsequently published in the Institute's volume on Large-Scale Organisation. Our two papers should be read together, and I shall avoid, as far as I can, traversing the same ground, except by way of summary and for purposes of record.

The British Transport Commission remains, as it was intended to be, a small policy-making body, charged with the general duty of securing the existence of a properly integrated system of 'public inland transport and port facilities within Great Britain, a system which, in the words of the Act, is to be extended and improved " in such a manner as to provide most efficiently and conveniently for the needs of the public, agriculture, commerce and industry." I will not pause to emphasise the difficulties in accomplishing this task which result from the fact that the Commission has no monopoly, even in regard to long-distance transport, and, though its present interests may be extended by various means, will not necessarily, under the Scheme of the Act, at any time be placed in a position of

monopoly. My aim is rather to describe the administrative scheme for carrying out, as best we may, the duties imposed upon us.

The first point to make clear is that the Commission, while maintaining necessary control over policy and finance, make no attempt to manage or operate any part of the vast undertaking committed to their care. The Executives are established to assist the Commission in the discharge of their functions and as agents for the Commission to exercise such functions as the Commission may, for the time being delegate to them. The Commission have freely used this power of delegation and have entrusted the whole management and operation of their various interests to the competent Executives: Railways to the Railway Executive, London Passenger Transport to the London Transport Executive, Docks (apart from packet ports) and Inland Waterways to the Docks and Inland Waterways Executive, Catering services to the Hotels Executive, Road Haulage to the Road Haulage Executive, and more recently, certain functions of an advisory nature relating to Road Passenger Transport outside London to the Road Passenger Executive.

Outside these Executives, there are the provincial and Scottish Road Passenger interests acquired from the Tilling and Scottish Motor Traction and certain other groups or Companies. They continue to be administered on our behalf in the form of operating Companies by reconstituted Boards, wholly nominated by the Commission by virtue of their complete shareholding, and including a direct representative of the Commission in the person of the Comptroller or other senior financial officer, as well as representatives of the Railway Executive. The Boards the Scottish Companies meet in Scotland.

Similarly, the great travel agency of Thos. Cook and Son, Ltd., is left to the management of a commercial board, to which recently a Member of the Commission has been added. All necessary contacts are maintained informally between the Chairman of the Company and the Chairman of the Commission on general issues of policy, and in the ordinary way of business between the financial and other officers of the two organisations, as in the other cases where a company structure has been kept.

The Commission have retained to themselves the right of prior approval of schemes involving expenditure beyond a certain figure and on programmes involving substantial financial commitments and exert budgetary control over the expenditure of all Executives. The Commission have also reserved certain powers in regard to higher staff appointments. They have the right, irrespective of any delegation, at any time to give a direction to any Executive on any matter, but that power has hitherto been very sparingly used.

In case it be assumed that the exercise of these reserved powers involves constant interference with management, I may say that references to the Commission are not excessive in number. The Commission meets formally twice a week and at these meetings the minutes of the Executives' own meetings and other reports are received and all formal submissions from all the Executives are dealt with promptly.

So far, therefore, as the relations between the Commission and their Executives or other agencies are concerned, it may fairly be said that we have decentralised to the limit.

It may indeed be asked how, with such a wide measure of delegation, the Commission can discharge their duty or know anything about their business. In the first place, many matters arise on which conference between the Commission, or one of their Members, and the Executive, or one of their Members, is found to be desirable. Without being involved at all in day-to-day management or operation, the Commission keep themselves generally informed of the progress of all the businesses constituting what Parliament has declared to be their single undertaking. Regular meetings are also held between the Commission and each Executive at which, without formality, outstanding questions or problems and developments of policy can be freely discussed. We endeavour, and I myself make special efforts, to visit from time to time some of the chief centres and to

see the work which is going on on the railways, the waterways and the docks or in the great road transport interests, both passenger and goods, which have now come over to us. It is not assumed that, if the Commission want to know something about anything in particular, they are trenching on the functions of management. That is not the spirit in which our organisation functions. Whilst each of our Executives is a separate authority and the employer of its own staff, we do all in our power to ensure that there shall be no watertight compartments and that officers at all levels, whether at the headquarters of the Commission or in the employment of the Executives, shall be able to meet and exchange information and opinions freely on the many common problems which integration of transport involves.

When I had to advise Ministers or to obtain authorities from the Treasury, I thought it unreasonable to expect them to take the maximum of responsibility upon the minimum of information. That is a view which I commend to all administrators. The Commission ought not to, and does not, live in an "ivory tower," with no contact with the vast army of men and women who are carrying out the hard day-to-day job of providing the nation with its transport, and without meeting face to face those in industry and commerce, or in local government, who represent the mass of our customers. On this point may I mention one feature of our organisation which seems to have merit? In the Commission, there is one part-time Member, my colleague, Sir Ian Bolton, who comes from, and resides in, Scotland. He is assiduous in his attendance at one of our weekly meetings and keeps us in touch with Scottish affairs in a way which would be impossible, even for a Scotsman, serving whole-time and resident in London.

The main features of the Commission's own organisation were described in the paper to which I have already referred and I can summarise them briefly. After little more than two years, no fundamental changes in the original pattern are to be expected, although there have been developments on the legal and research sides during the last twelve months.

Beginning with the Commission, I emphasise the point that there is no formal or functional division of responsibility between the Members of the Commission. Naturally we use any special knowledge or experience residing in any one of us where it can be most profitably brought to bear, but essentially our responsibility is a collective one. All formal decisions are taken collectively at formal bi-weekly meetings.

THE CHIEF OFFICERS

Turning next to our establishment, we are served by five Chief Officers. The Chief Secretary, the Comptroller, the Chief Public Relations and Publicity Officer, the Chief Solicitor and the Chief Research Officer.

The main tasks of the Chief Secretary are to ensure that the necessary facts and considerations are placed before the Commission to enable them to frame policy and to decide the matters referred to their judgment, either by the Executives or by the Minister of Transport or any external authority, and, having done so, to see that effect is given to their decisions. The initiation of ideas is, of course, not excluded from the sphere of his duties, and he has a wide discretion in dealing with day-to-day matters of administration. He is assisted by a Deputy Secretary and four Principal Officers for Staff, Works and Development, Traffic and Charges respectively, and their work is important in assisting the Commission to co-ordinate the activities of the Executives. These Officers, however, are not regarded as technical specialists, but serve rather those functions of a central secretarial organisation which are inherent in all higher administration. In technical matters the Commission rely on the advice of the Executive and their specialist officers.

The Comptroller is responsible for advising the Commission on finance and for ensuring that the supervision and control of the financial aspects of all the Commission's activities, in whatever Executive arising, are such as to enable the Commission to answer for the efficiency and economy of their operations. A high degree of responsibility has been devolved on the chief financial officers

in each Executive, and all work which can be departmentalised or localised is pressed away from Head Office, so that the Department of the Comptroller may function as a relatively small unit, concerned mainly with general questions of financial policy and organisation; with the shape, size and location of the various units of financial administration and the conceptions which should govern them and with the usual processes of budgetary control, consolidated accounts and statistics, audit and, finally, what will be of growing importance, cost investigations. This department is divided into five divisions, each in charge of a Director.

The Director of Funds is responsible for the control of current working capital, the effective utilisation of all the Commission's cash resources, and the investment of surplus funds. The long range planning of the liquid position is an important part of his duties.

The Director of Accounts and Budget is responsible for settling the rules of account to be followed throughout the Commission's undertaking, as the Treasury Officers of Account have done for Departments of the Civil Service. He examines the regular financial returns and the annual accounting budgets prepared by the Executives, and is responsible for the keeping and preparation of the Commission's annual accounts. Under him are a Statistical Officer, and the Principal Costs Officer, who investigates costs and costing processes wherever these arise, and arranges for the production of costing figures for the undertaking as a whole, and for its various parts.

The Director of Audit arranges for the external auditing of all accounts and the integration of auditing programmes, for an internal audit of the financial administration at the higher levels, and for the adequacy of internal check throughout the undertaking. Like the staff engaged on cost accounting, this staff stands quite apart from the machinery of the Executives in an independent position. It is thus able to act with detachment and to examine matters from the angle of the Commission as a whole.

The Director of Acquisitions has negotiated many of the voluntary agreements with road undertakings and examines financial considerations of importance involved in acquisitions, including settlement of compensation for the 2,500 long-distance road haulage concerns recently taken over. This work is involving a great strain upon a small staff, in spite of the fact that detailed investigation of accounts has been farmed out to a panel of nearly 400 professional accountants throughout the country. This procedure, carried to the limits of prudence, was adopted both for the sake of immediate decentralisation and in order to avoid future redundancy of staff when the negotiations and arbitration proceedings came to an end. Fifth is a small General Division which deals with certain general financial matters not falling within the scope of other divisions.

The Commission found it desirable at an early stage to appoint a Chief Public Relations and Publicity Officer responsible to them for dealing with public relations at their own headquarters level and for co-ordinating this work throughout the undertaking. Under him a Public Relations Officer deals with the Press, with all suggestions from public bodies or the public which come direct to the Commission's office, and with Parliamentary correspondence, which is answered personally by myself. The C.P.R.O. is also assisted by a Publicity Officer who is responsible for the Commission's own publicity and in a general way for questions of design, including liaison with the Royal Commissions on Fine Art, and who supervises the Films organisation, which produces films for public exhibitions and for staff instruction.

Supplementing this Headquarters' organisation for Public Relations, a Committee, consisting of the Chairman of the Commission and of each Executive, meets as necessary to co-ordinate policy, and a Public Relations Co-ordinating Committee, responsible to the Policy Committee, covers day-to-day working at officer level under the Chairmanship of the C.P.R.O.

A third division of this Department is that of Commercial Advertising, under the control of an experienced advertising expert. This was the first common service to be established by the Commission

to cover all Executives. The Commission have been slow in establishing common services and will only adopt this course in strictly defined fields where clear advantages are to be gained. But here was a field in which much was to be gained. The Commission are in an unrivalled position to offer to advertisers a nation-wide range of transport media for advertising purposes, and the national advertising agencies themselves desired some central point to which they could come with their proposals. From the Commission's point of view, it would have been absurd to have four or five Executives, and two or three other important agencies trying to sell space to advertisers competitively against one another. From the advertiser's point of view, it is an advantage to know the whole range of facilities at his disposal, and to be able to negotiate the cover which best suits the circumstances of his business. The Commission's net advertising revenue amounts to over £2 million a year and the importance of this common service, and its efficient conduct, to all users of transport is thus considerable.

The principle of a common service has also been applied to the Commission's legal work, so that one legal team is available for the legal requirements of all Executives, and for the provincial and Scottish road passenger companies. It is organised under a Chief Solicitor, who has three principal assistants covering the Parliamentary and General Work, Conveyancing and Litigation, with a representative in Scotland and others in some of the commercial cities in the North of England.

The fifth Chief Officer of the Commission is the Chief Research Officer, appointed in pursuance of the special power given to the Commission to provide facilities for research, with the object of co-ordinating and guiding the research work of the Commission. Both the Railway and London Transport Executives inherited research organisations from their former constituent bodies, and these have been widened in scope and will be further developed. At the present stage, it is convenient to make arrangements under which work can be done by the research organisation of one Executive for another, and a Co-ordinating Committee, on which all Executives are represented, meets under the Chairmanship of the Chief Research Officer to ensure that information of interest to more than one Executive is exchanged between them; that the research function takes its proper place in the internal organisation of each Executive, and that the problems which emerge, whether of a technical or operational character, are properly followed up. A Research Advisory Council, which includes representatives of each Executive and several eminent scientists of wide attainments, meets quarterly, under my Chairmanship, to advise the Commission generally on research matters. By these means we shall be helped to bring scientific thought and method to bear on the many problems which arise in connection with the vast physical equipment at our disposal, including, for example, our fleet of nearly 50,000 road haulage vehicles (including those operated by the Railway Executive) and passenger vehicles numbering over 20,000.

You will see that at headquarters our object has been simplicity, and the avoidance of top hamper. Apart from the common services of Commercial Advertising and Law, the total number of the Commission's own staff to-day is only 230.

THE RAILWAY EXECUTIVE

In some of the Executives, larger headquarter structures are necessary to enable them to deal with the responsibilities which have fallen to them and to cope with the initial work of re-organisation, in the case of the railways, and of building up an entirely new organisation in road haulage. But the aim here also has been the maximum of decentralisation consistent with steady advances towards standardisation of practice and equipment and with coherence of policy in matters where local divergencies could quickly lead to embarrassment.

Many years ago I remarked that the unification of the railways might create as many problems as it solved. In determining the lines of the new organisation, it would have been foolish not to take the fullest advantage of the elabor-

ate, well-tested and well-staffed framework of the amalgamated companies and any other course would have run unnecessary risks of jeopardising current operation. In the main, therefore, with adjustments of boundaries, transfers of penetrating lines, and absorption of minor or joint railways; with a division of the old London and North Eastern system into two Regions and the important consolidation of all the lines of the two companies formerly operating in Scotland into a new Scottish Region, the new Regions represent familiar units. How quickly names become familiar! Only twenty years ago those of the amalgamated companies themselves sounded new-fangled, apart from the Great Western which managed in 1921 to retain its adjective. The present regional names are simple and not inaccurate—Southern, Western, London Midland, Eastern, North Eastern, Scottish. Within these new regions the general distribution of function and responsibility at the middle and lower levels, where the direct contacts of the public with the railway ordinarily occurs, remain unchanged, but certain changes have taken place, including the combination of freight and passenger commercial work under single Commercial Superintendents, and the assumption of responsibility for goods terminal work by the Commercial Department, in order to provide a closer liaison between terminal and cartage operations. There has also been recently a considerable revision of regional boundaries which makes for a more even distribution of staff between the six Railway Regions, and avoids wherever possible the boundaries of Regions cutting through important towns, so that District Officers are not duplicated as they often were in the days of the competing Main Line Railway Companies.

At the higher levels, there were necessarily important changes if the policy of unification was to become effective. To have left four or more separate railway regions, each under a General Manager, perpetuating the old companies, would have been to lose many of the advantages which unification can secure, even though separate financial ownerships would have ceased. It was regarded of cardinal importance that the six full-time Members of the Executive should be allotted definite functional responsibilities extending over the entire system and should deal directly on questions wholely within their sphere with their functional counterparts in the Regional departments. This principle was applied in regard to civil and mechanical engineering, to operation and to staff and to commercial matters, as well as to certain miscellaneous, but important, functions such as estate management and police. I am satisfied, even on the short experience already available, that this decision was right and that progress has been made, and is being made, in harmonising practices, in determining future standards (including the types and designs of locomotives and rolling stock), in working out and applying methods for repairing and renewing the track, and generally in planning for future development, in a way which would not have been possible otherwise. Our aim could only be achieved by concentrating at headquarters carefully chosen teams of highly-qualified experts, working with a single aim under a single direction. What applies to the technical and engineering side of railway work, applies also largely to operation and other branches. There is a great difference in efficacy between a specialised and functional control of the character we have set up and any attempt to secure the same results from a group or committee of regional or divisional General Managers, however able or enlightened individually they might be, each responsible only for his own particular piece of the undertaking, and with no overriding authority.

If it be feared that functional members of a central executive may feel little real responsibility for anything outside their immediate province, or that functional Members may have a tacit understanding not to criticise one another's proposals, I should reply, without denying the possibility of a risk, that it has been made clear that the functional Members are not to be regarded as merely technical experts; that they are collectively responsible for all the decisions of the Executive and that the Chairman himself, though in the case of

the railways an experienced operator, is not functional and is answerable generally for the whole range of business, as the head of any great organisation in the last resort must always be. The best safeguard against undue narrowness is to be careful in the choice of men. The appointments actually made have been filled by persons possessing high technical or professional qualifications, but nevertheless with long experience of administration and of controlling large bodies of men.

So much for headquarters. What about the Regions? They have been placed, as you know, in charge of a Chief Regional Officer and it is round his position that any controversy mainly revolves.

It has been said that the Chief Regional Officer is left in an anomalous and awkward position because he has not complete control over everything that affects his Region. When there were four separate and self-contained financial interests, it was natural for the Companies to adopt the ordinary scheme of a General Manager responsible to a separate Board. But that is no longer the position when the railways have been unified into one system, and the Chief Regional Officer is not General Manager —writ either large or small. He has a high responsibility of his own. He is informed of decisions and action taken by the functional organisation at the centre which affect the working of his Region, so that he may know everything of importance which is passing between the functional members of the Executive and the Regional departmental officers. Procedure in this matter is always subject to revision but the aim is to put the Chief Regional Officers in a position to carry out their essential functions of co-ordinating and making effective the policy of the Executive and the Commission within their respective Regions. Many months ago, the Railway Executive arranged to invite the Chief Regional Officers to attend one of their own meetings each fortnight, and I know that the personal contacts and exchange of views, which are thus made possible, help considerably in promoting smooth working and securing unity of outlook.

I need not deal more fully with this important aspect of our organisation, since, as I was about to read this paper, an article by the Chairman of the Railway Executive dealing with it very adequately, appeared in the "Railway Gazette."

In a vast organisation, such as British Railways, we can hardly expect to move to finality in the course of two years. New situations may require new administrative techniques. No one will underestimate the importance of avoiding ambiguity as to the line of responsibility. I should be the last to deny that the successful discharge of the duties of a Chief Regional Officer makes heavy demands upon the personal gifts and qualifications of the occupants of those posts. But we are fortunate in being able to find individuals of force of character and great experience fitting them to fill the highly responsible and onerous posts in the Regions, where, as I have said, the all-important contact with our customers must take place and where the direct contact with the staff must also be maintained and developed. The Commission are not advocates of centralisation, but the contrary, and in working out the organisation on the basis of functional responsibilities at the Executive level, we have aimed at the greatest possible degree of devolution of responsibility for the actual running of the machine. We have at any rate avoided the form of over-centralisation which can easily occur if, in a vast organisation, everything is made to centre in one man.

My remarks under this head have been made with direct reference to the railways, which represent our largest interest. But with necessary adaptations, similar considerations apply to other Executives.

THE OTHER EXECUTIVES

The Docks and Inland Waterways Executive is composed of a Chairman and three full-time Members, with two part-time Members. The three full-time Members undertake functional responsibility for Engineering, Operating and Staff. One of them is especially experienced in Canals and one of them in Dock administration and working.

The Inland Waterways have been allocated to four divisions, each under the charge of a Divisional Waterways Officer, and the important groups of docks in South Wales and on the Humber are each in charge of Chief Docks Managers.

So far as concerns the many docks and trade harbours which exist around our coast, and which did not pass to the Commission on January 1st, 1948, the Transport Act laid upon the Commission the duty of keeping these under review with a view to determining whether a Scheme should be prepared for any particular harbour or group of harbours to secure efficiency and proper development. This task the Commission have asked the Docks and Inland Waterways to undertake on their behalf, in addition to the work of managing the Inland Waterways and Docks which have come under their control.

The London Transport Executive comprises a Chairman, four full-time Members and at present two part-time Members, with functional responsibilities of Staff, Engineering, Operating and Finance attached to the full-time Members. Their organisation is intensive but naturally compact, and handles the London Underground system and the London Omnibuses with an enterprise and efficiency which has continued unabated from the capable organisation built up by the late Lord Ashfield and Mr. Frank Pick for the London Passenger Transport Board.

In the Hotels Executive, the balance between full-time and part-time Members is different, the latter being in a majority and themselves possessing special knowledge of the industry, whereas the part-time Members of other Executives are introduced by reason of their general experience in industry, commerce or administration. The Chairman and one other Member of the Executive are, at present,* whole-time. The organisation places the control of the Refreshment Rooms and of the Resaurant Cars under separate Superintendents, assisted by Divisional Superintendents or Area Managers, while the supervision of the hotels is entrusted to Area Superintendents.

The Road Transport Executive, as first constituted, covered both Goods and Passenger, but it became apparent that advantages would follow the separation of these functions. Accordingly, in 1949, the Minister of Transport established the Road Passenger Executive, and the former Road Transport Executive was thereupon renamed the Road Haulage Executive.

On the road haulage side, a new national organisation is being built up to weld together those undertakings (some 2,500 in all) engaged in the long distance carriage of goods by road which have been acquired by the Commission. Here again the principle is to decentralise everything that can be decentralised.

The Executive consists of a Chairman, three full-time and two part-time Members. The Chairman is free from heavy functional responsibilities of a technical nature, but the remaining full-time Members are regarded as functional experts in the spheres of engineering and operations, organisation and staff matters. These Members are reinforced by part-time Members with long experience of the industry, and have appropriate Chief Officers acting under their instructions, but the Secretary (who is also Legal Adviser), the Chief Financial Officer and the Public Relations Officer report to the Chairman and to the Executive as a whole.

Under the Executive, road freight transport is being administered through eight Divisional Managers, in charge of the eight Divisions which have been created. These Managers in turn control District Managers, about six in a Division, and District Managers control Group Managers, each Group Manager operating a fleet averaging 100/120 vehicles. Chief Officers at Headquarters correspond on their own subjects with Divisional Managers, who are assisted by Officers dealing with traffic, engineering, accountancy, staff and welfare, stores and property. The Division-District-Group formation is designed to ensure the quick responsiveness to local requirements which is essential in this kind of business.

* Since this paper was read the Chairman of the Hotels Executive has become part-time.

Although the Act does not give the Commission power to acquire compulsorily road transport undertakings engaged solely in some special forms of transport work, such as household removals, the transport of meat and livestock, liquids in tanker vehicles, or abnormal indivisible loads, yet the Hays' Wharf Group of Cartage vehicles, which passed to the Commission on January 1st, 1948, with the other shareholdings of the former Railway Companies, engaged to a large extent in the road conveyance of these special traffics, and this business the Commission have been glad to continue. The work has been placed under the control of a " Special Traffics Division," responsible on a nation-wide basis for these varied activities.

The most recently-created Executive is the Road Passenger Executive. It differs from the other Executives in that, under the existing scheme of delegation from the Commission, it does not manage and operate the interests covered by its name.

Road Passenger Transport (excluding London Transport), except through the railway shareholdings in Road Passenger Companies, did not automatically pass to the Commission on January 1st, 1948, and in respect of this form of transport the Act enables the Commission to prepare Area Schemes with the object of co-ordinating the facilities and providing the public with the best possible services. The Road Passenger Executive was therefore constituted primarily to undertake the duty of reviewing passenger road services operating in Great Britain and thus of assisting the Commission to determine the areas with respect to which Schemes should be prepared. Only under such Schemes can road passenger undertakings be acquired compulsorily.

For the management of their Road Passenger interests, the Commission, as I have already explained, have retained the company structure—a convenient and effective form of decentralisation in this particular and local business. In the Tilling Group they have retained the small headquarters group of high officers who formerly co-ordinated the control and policy of the operating companies, and in Scotland they have the services of the top management of the companies formerly owned by Scottish Motor Traction Ltd.

On general questions we have also available to us the advice of the Road Transport Executive of which the Chairmen of both groups are part-time Members.

That, then, is a brief sketch of the organisation of the Commission and its Executives as they are now functioning. It has been built up within the framework of the Transport Act, and everyone concerned is fully conscious of the need for ensuring that authority matches responsibility, and for encouraging initiative at all levels, and not least at the lower levels, so that transport operations may not be hampered by rigid and remote control.

Co-ordination and Integration

It is inevitable that in the last two years much time and energy should have been devoted, both by the Commission and their Executives, to the preliminary tasks of organisation, to unifying the various services under their control, and to dealing with problems of pressing urgency. But over and beyond these necessary preliminaries is the need for moving as rapidly as is practicable towards the integration of transport which is the objective of the Transport Act.

I have already mentioned the financial unity of the Commission's structure. All the assets taken over or acquired are vested in the Commission as such, although the custody and management of over 99 per cent of the capital assets are in the hands of the Executives. All the businesses and activities conducted by the Commission form a single undertaking. This is reflected in the form of our accounts, where we account according to Activities, rather than by Executives, or under any geographical sub-division. While the operating receipts and expenditure of each activity are separately shown in considerable detail, beyond that point the net traffic and other receipts from working and the central and capital charges are consolidated. That scheme of accounting is, I think, fundamental to integration.

Further, a common charging policy is required to assist in the integration of

rail and road services throughout the country, though this is not the same thing as identity of rates. In this matter, what have been highly competitive interests in the past are concerned, and the burden of initiative rests upon the Commission, since on them is imposed the duty of formulating Schemes which, when approved by the Transport Tribunal, will supersede existing charging powers. The Commission, therefore, set up a special body known as the Charges Committee, over which Sir William Wood presides, and on which the Executives concerned are represented, and which is, in turn, served by appropriate sub-committees of experienced officers for both the goods and passenger sides of each form of transport. Much progress has been made in this matter which must, for some time to come, absorb a good deal of the attention of the Commission and the Executives, particularly of their commercial representatives.

To further immediate measures of co-ordination between Executives, and to lay down the lines of ultimate integration of the Commission's transport services, the Commission established a Standing Conference, under my Chairmanship, including members of all the Executives concerned. Under their direction, a careful study is being made of the possibilities of integration in a representative area, and the general principles on which integration of goods services between road and rail can best proceed are being worked out. I hope that before long it may be possible to issue a memorandum for the guidance of all concerned as to the lines on which definite action should proceed in the immediate future. This is a matter of importance, not only to the whole work of the Commission and the Executives, but also to the Trade Unions and the staff affected.

This brings me to another matter of general interest—the relations between the Commission and the staff. The Act itself provides that, except as between an Executive and the Commission, the Executive shall " to the exclusion of the Commission, be treated as the employer of any officers or servants of the Commission so long as they are by virtue of the delegation under the control of the Executive." This is an interesting as well as a most valuable provision, emphasising again the policy of decentralisation. Negotiations as to wages and conditions of service are for the Executives, and the general dealing with the staff in other respects is for them also. The Commission are given special responsibility for ensuring that an adequate machinery exists for " the settlement by negotiation of terms and conditions of employment " and for " the promotion and encouragement of measures affecting the safety, health and welfare of persons employed by them; and for the discussion of other matters of mutual interest to the Commission and such persons, including efficiency in the operation of the Commission's services." In regard to training and education of staff, it is also incumbent upon the Commission to act on lines settled in agreement with the Minister. Close attention has been paid to all these matters, and arrangements have been, or are being, made through the respective Executives for dealing with them. In particular, arrangements have been made for vocational training, background training and further education of staff whilst in the Commission's service. The Commission have approached this part of their duty by laying down a general basis of procedure, in consultation with the Executives and the representatives of the staff, leaving each Executive to apply the principles established to its own particular case.

Apart from these statutory requirements, it is the aim of the Commission to foster throughout their entire undertaking a transport outlook, and to give the great army of men and women in their employ, numbering already some 850,000 persons, brought up and trained, as most of them have been, in one or other of the particular branches of transport and having a natural and proper loyalty to his own branch, a sense of their wider interest in and loyalty due to the undertaking as a whole. We think it right to explain our problems and our policy frankly to our staff at all levels and by so doing to stimulate their interest in their work and to assist them to contribute towards its success. In the first place, without impinging on the useful

staff magazines issued by the Executives, the Commission make available to every member of the staff occasional reports in newspaper form (*Transport News*) upon the special features and developments of the transport undertaking as a whole. In addition we issue monthly News Sheets (*Staff News*) which are exhibited in places where they can be seen by the staff. And we have recently issued a *Transport Review,* containing articles by Members of the Executives and Chief Officers dealing with subjects of importance or interest in a connected and reasoned manner. It is already clear that there is much demand for it.

Secondly, we created a British Transport Joint Consultative Council at which Members of the Commission and the Executives meet the principal officers of the larger Trade Unions. At these meetings all current problems of the undertaking can be, and in fact are, discussed in the fullest and freest manner, outside, of course, those specifically concerned with wages or conditions of service, which must follow the normal and agreed machinery of negotiation. These are ways of building between ultimate authority and the man on the job the bridge which should carry a two-way traffic, and prevent any divorce, or sense of remoteness, between what are too often regarded as the two sides of a gulf.

Each nationalised industry has been started on its career with a somewhat different type of organisation. Where the circumstances are different I see no reason why their internal organisation should necessarily tend to the same type. It is better, for the present, for each of these large-scale undertakings to evolve the system of management and control of their widespread activities most suited to their circumstances. In my view, the conception of a Commission owning and directing the whole undertaking but entrusting management and operation to specialised Executive bodies under extensive delegations is the type of organisation best suited to the present conditions of national transport, and one most effectively ensuring a high degree of decentralisation from the very centre, where the mischief of over-centralisation is perhaps most likely to occur.

I will end with a reference to the problem at which I hinted at the beginning of this paper. Having organised according to types of transport and the activities we conduct, while giving each its own appropriate regional area or district sub-divisions, shall we be in a position to ensure the integration of Rail, Road and the Inland Waterways? In many matters distinction of function is clear cut. For example, on the permanent way, the techniques of construction and maintenance are different. Apart from that, the provision and care of the permanent way in the case of the road is the responsibility of the Minister and the Highway Authorities, and with its construction, maintenance, signalling and policing neither the Commission nor their operating bodies have anything to do. And the design, construction and maintenance of locomotives and rolling stock is something distinct. Again the actual operation of a railway differs from the operation of a fleet of road vehicles, and processes so different in character call, perhaps, for different types of experience and outlook. But at least four of our constituents, London Transport, the Road Passenger concerns, the Road Haulage Executive and the Railway Executive are responsible for large numbers of road vehicles of various types and, though no blind amalgamation of all the fleets, passenger and goods, for purposes of maintenance would be sensible, there are opportunities of which we shall take full advantage, for unified arrangements as to the maintenance of goods vehicles in particular, so that we do not use two sets of premises and shop equipments in the same place or area where one will suffice. In more general directions, there is scope for joint arrangements between Executives, for close co-operation in research, for common services in limited fields under the direct supervision of the Commission. Greater opportunity for widening experience and granting promotion through interchangeability of staff can be secured by the general control of the Commission.

The chief problem arises on the commercial side. It is only now that the Road Haulage Executive is able to offer a nation-wide network of haulage services

and our next step is to move towards something in the nature of a unified commercial organisation which, while leaving the trader his legitimate freedom of choice, will sell transport as a unified service. The actual operation of different types of transport can be left in specialised hands as at present, though we must also by suitable stages reach a position in which the operation of transport of goods by road, in which at present the Railway Executive is engaged on a large scale, passes in general into the control of the Road Haulage Executive. It may seem obvious that all road conveyance of goods under the Commission should be made a function of the Road Haulage Executive forthwith. But many practical considerations make gradualness inevitable and, among them, is the fact that the labour employed is in different Unions and subject to different wages and conditions of employment and privileges. Moreover, no one, whether Unions, Executives or the Commission, wishes to precipitate, or aggravate, problems of redundancy.

Redistribution of function under the Instruments of Delegation can be achieved within the terms of the Transport Act. If need be, the Minister can vary the number and names of the Executive. The Commission recognise that their organisation must be so shaped as to conform to the requirements of the public and, while affecting the pattern of integration, must not be cast in too rigid a mould or seek to force traffic into wrong channels. Without professing that we have solved all these problems of the not distant future completely at the moment, I can claim that we are moving to a solution and expect to quicken the tempo.

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Haldane Essay Competition, 1950

Members are reminded that the closing date for receiving entries to the Haldane Essay Competition is 31st August.

Further particulars may be obtained from the Director

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Mr. Morrison's views on Public Accountability

During a speech to the Oxford University Labour Club on April 22nd, 1950, Mr. Herbert Morrison, the Lord President of the Council, dealt with the public accountability of the management of the nationalised industries. The following extract from his speech should be read in conjunction with Mr. Morrison's article *Public Control of the Socialised Industries* in the Spring, 1950, issue of Public Administration.

* * *

" What provision has been made for the public accountability of the socialised Boards? Let me say at once that I do not think that the final solution has been discovered yet. It would be strange if it had. We are in the early years of novel constitutional and social experiments of great long-term significance, and we can be certain that as experience grows the methods which are in use at present will need to be modified and additional methods will be evolved.

The obvious solution of the problem of public accountability would have been to create new Government Departments to manage the publicly-owned industries. In certain circumstances there is much to be said for doing so—I would not reject it in suitable cases—and theoretically most of the difficulties about public accountability would be disposed of. There would have been a neat line from the man at the pit or in the power station right through the Minister to the elected representatives in Parliament. But the problem would only have been solved in part. As we realise increasingly even with Government Departments, public accountability cannot be wholly discharged on the floor of the House of Commons. That's why we have Information Officers. When you are dealing with thousands of officers and millions of private citizens, it is necessary to supplement Parliamentary supervision by other methods of bring home to the public officer his responsibility to the citizen, and of bringing the point of view of the citizen to bear upon the officer. And we have to watch this problem in relation to private as well as public undertakings.

As far as the recently socialised industries were concerned, we thought, however, that it would be a mistake to subject them—as commercial enterprises—to the detailed Parliamentary control which is appropriate for Government Departments. We decided that it would make the railways less and not more efficient if every time a train was five minutes late or a porter—or a passenger—lost a suitcase there could be a Question in the House of Commons. Meticulous political supervision would tend to lead to excessive caution, slowness and red-tape! We, therefore, distinguished between matters of day-to-day management, and general and specific questions of policy in which it seemed to us right that, as the representatives of the community, Ministers, and—as a result of Ministerial responsibility—Parliament, should have a right to call the Boards to account.

Broadly, then, the position is that the Boards are not specifically accountable to Ministers and to Parliament on the details of their operations, though Parliament has wide and detailed powers of debate. They are accountable to Parliament through Ministers on the matters for which Ministers are themselves responsible. The list is longer than most people realise. It includes the responsibilities of Ministers in relation to, for example, programmes of research; capital development; education and training; borrowing by the Boards; forms of accounts and audits; annual reports; pensions schemes; the appointment of, and other matters connected with, Consumers' Councils. And, of course, the fact that Ministers appoint the Boards, and their powers of general direction are fundamental to the question of public accountability.

Here, then, is the problem—how to make the public accountability of the socialised industries a reality without sub-

jecting their day-to-day management to meticulous political supervision.

It is not easy, but I don't believe it is as difficult as is sometimes thought. In fact, I think that we have already gone a long way towards providing the machinery by which the industries can account to the public, and the public can call them to account, and that it is mainly a question of using this machinery to the full.

Parliament

First of all, Parliament, and Parliament must obviously play the major part. The Government have indicated their desire to give all reasonable opportunities for Parliamentary debate—without restriction—and I recently announced our intention to provide three days for debates in the present Session, in addition to other opportunities which will arise in any case.

It is far from being a matter just of Question Time. Even as regards Questions the range of subjects on which Questions can be asked is wide, while by one of those exercises in common sense which is characteristic of the House of Commons the strict letter of the rule about Questions on day-to-day management has been tempered by an arrangement under which the Speaker will allow such Questions if they raise matters of public importance. Then there are opportunities for discussions on Supply Days and on the Adjournment in which day-to-day matters can come up as well as general questions of policy. And a further example of the way in which we adapt old devices to new needs was the discovery by Back Bench Members that they could raise such matters in debating private Bills promoted by the Boards.

All of this is additional to the opportunities which Members of Parliament have for approaching the Boards direct on all the matters large and small in which they or their constituents are interested; and the Boards go to great pains in dealing with such enquiries.

Altogether it adds up to something really substantial. To take transport as an example, I was told the other day that the British Transport Commission had dealt with over 3,300 questions and representations from Members of Parliament, while in the last four months there had been three full-scale Debates about transport as well as a number of debates on the Adjournment.

Public Discussion

Secondly, there is the public discussion which takes place outside Parliament. Not the least important consequence of socialising an industry is that it is brought into the arena of public discussion. All the socialised industries are under the obligation to publish annual reports and accounts, and this is only one aspect of their obligation to keep the public fully informed about their activities. I have been glad to see that they are increasingly aware of this broader public relations duty.

Through speeches, publications and other publicity material adapted to the different needs of different sections of the public, they can at one and the same time carry out their duty to account to the public and promote that interest in their affairs which is necessary if they are to function as healthy institutions in our democracy.

To take only two examples, the last annual report of the National Coal Board—which is well written—contains a wealth of material of the greatest interest about future policy as well as past activities which is indispensable to anybody who wants to understand the problems which face the coal industry. And the British Electricity Authority have just published a popular illustrated version of their Annual Report—price one shilling—which tells the story of their work to the man in the street, with pictures and graphs. I hope that their enterprise will be rewarded and that the booklet will be bought in large quantities.

Of course, the Boards can only do part of the job. A special obligation rests upon the Press and the B.B.C. to make known information about their activities and their plans, and to provide full opportunities for public discussion. There is also a responsibility upon the ordinary citizen to inform himself about his property, and to take his share in public discussion.

Consumers' Councils

Thirdly, and of great importance, there are the Consumers' Councils which have been set up under different names and in differing forms in connection with the socialised industries. They provide machinery by which the views of consumers can systematically be brought to bear on the Boards, and if necessary brought before the Minister. Where appropriate the Minister can issue directions to the Board to remedy defects to which the Councils have drawn attention.

Once again, however, there must be active public participation. Consumers' Councils will not come fully to life unless consumers make proper use of them, and consumers only have themselves to blame if the Consumers' Councils do not take up grumbles of which the grumblers have never told them. I do not mean by this that when a housewife has a grievance about the gas man or the local electricity showroom she should rush off a letter to the Consumers' Council. Obviously the first thing she should do is to take the matter up with the local manager. It is when she cannot get any satisfaction from the responsible Board that she should approach the Consumers' Council. But I do think that it is important that every consumer should be aware of the Consumers' consultative machinery, and should know to whom to write, or whom to see if he or she fails to get satisfaction from the Boards and wants to go to higher authority.

I am afraid this is not the case yet. It is up to us all to see that this valuable machinery does not fail because people don't know about it or use it enough. Something can be done by official publicity, but in a matter of this kind bush telegraph methods are needed as well, and I hope that local authorities, local Labour Parties, Co-operative Societies, Trade Unions, women's organisations, trade associations, and other bodies will co-operate with the Government, the Boards, the Consumers' Councils themselves, and the Press in publicising the Councils and their work. Let us—and this goes for all consumers—see to it that the grumbles and frustrations of the consumers and users are heard and fairly examined.

Incidentally—and here I speak personally—I am not sure that the statutory descriptions of these consumer bodies are very happy or are likely to inspire the ordinary man and woman with the sense that they really stand for him and her, and are really his or her own show. "Consumers' Council," "Users' Consultative Committee," "Advisory Council," names like these are well enough for Acts of Parliament, but they lack warmth and colour for every-day use. They lack the common touch. If anybody can suggest a better description—something which conveys the idea that the consumers' bodies are the voice of you and me, of men and women who are in the relationship to the Boards of consumers, citizens and shareholders—I shall be very glad to know of it. I won't promise Parliamentary time for a Bill specially to amend the statutory titles, but I will certainly see that any suggestions are carefully considered for informal use, or for inclusion in amending legislation of wider scope that may at any time be brought forward.

These, then, are three major elements in public accountability—Parliamentary discussion, general public discussion based on full information, and the Consumers' Councils. And that is not the end of the story. Every contact between the individual citizen and one of the socialised industries should be a two-way reminder of their social responsibility. The officer or employee of the socialised industry should be conscious of his obligations to the citizen. He should be courteous, helpful and friendly. From the citizen he should be entitled to expect appreciation of services well done and understanding criticism when he fails to give complete satisfaction."

Recent Reforms in the Government and Administration of France

By Professor Rene Cassin

Public opinion abroad has been almost exclusively concerned with the new Constitution of the Republic and French Union (promulgated October 27th, 1946) which has replaced the 1875 Constitution, and also with the main political and social changes that have taken place since the Liberation—the formation of new parties, novel government coalitions, nationalisation, the organisation of a comprehensive scheme of National Insurance, etc. But during this same period certain reforms have passed relatively unnoticed despite their importance, namely those in the field of administration and the machinery of government.

A feature of the French parliamentary system is the political weakness of the Government—a consequence of the country's political geography. All our great Prime Ministers since the end of the 19th century, those who have held office for any length of time, have done so by virtue of their personality rather than because they were party leaders — Waldeck-Rousseau, Clemencau, Poincaire and Briand. This political weakness, and source of ministerial instability, was unfortunately aggravated by certain technical faults in the way the Government functioned.

The technical weaknesses were pointed out by M. Leon Blum who, for two years, was head of the personal secretariat to the Minister of Transport and Public Works, in his "*Lettres sur la reforme gouvernementale*" published in the "*Revue de Paris*" in 1917. He called special attention to the facts that the Prime Minister in France always assumed charge of an important Department instead of devoting himself exclusively to the task of general direction; to the complete absence of documentation and the lack of any organisation for assuring that the work of the Departments and that of the Government in relation to Parliament was co-ordinated.

Fortunately, at this time the Third Republic still maintained, in the tradition of Louis XIV and of Napoleon, a very strong centralised administration. The Conseil d'Etat, other important administrative bodies and the ministerial departments all formed a framework which contributed much to the resistance and final victory of France and her Allies, although her territory was invaded by the enemy and the war lasted nearly five years.

The frightful losses in men and the destruction suffered during the war, together with the fall in value of the franc, had the lamentable result of overtaxing the political machinery of the Third Republic. Between 1920 and 1940 Parliament often abdicated its right of legislation and control, by giving to the Government the power to legislate by decree. Another effect of the war was seriously to weaken the efficacy of the central government; the senior administrators were faced with an increase in their duties and were badly paid; their authority suffered and there was often a falling off in the standard of administration.

In 1936, M. Leon Blum, having become Prime Minister, made an attempt to restore the strength of the administration. He assumed direction of the legislative activities of Ministers and of the Legislature. He asked the latter to vote skeleton legislation, while the Conseil d'Etat was to draft, by a sort of secondary legislation, the regulations for its application. He also attempted to create a National School of Administration.

But this attempt to restore, within the democratic framework, a coherent governmental authority and a civil service capable of assuming responsibility for the ever-increasing activities of the State, could not be completed in time.

The second war, marked by the occupation of France and the setting up of an arbitrarily established Vichy régime marked the beginning of many a severe

ordeal. In the absence of any parliamentary control, the dismissal of many of the Prefects and other experienced Republican administrators, the bringing in of a scratch team of Ministers, the divergence between those who wanted to satisfy every German demand, and those who preferred a waiting game, and finally the deliberate obstruction of many a civil servant, led to an increase in the power of irresponsible bureaux and a paralysis in their effective direction. No one knows what might have happened at the end of the war, had not General de Gaulle, who had assumed authority in London in 1940 for the continuation of the fight at the side of the Allies, progressively restored and so maintained the democratic principles and the laws of the Republic first in the overseas territories as they were liberated, then in Algeria, and had he not, as head of the Provisional Government, made good the promise to the French people at the time of the Liberation by handing over to the first freely-elected Assembly the powers that had without authority been assumed.

General de Gaulle and those who collaborated with him in the National Committee at London—literally starting from nothing—since in 1940 they had neither territory nor administrative personnel—attempted, with the bare means at their disposal, to meet two essential needs of a nation at war:

(i) A government concentrated and coherent, embodying national continuity and unity;

(ii) An efficient administration giving proof of initiative and free from exclusiveness.

When, in August, 1944, Paris and most of France was liberated from enemy occupation, the Provisional Government made use of two new institutions. These had their origin in the improvisations of London but which took effective shape in Algeria. The first was the General Secretariat of the Government, a technical body set up to record decisions taken by the Minister's Council and to see that these decisions were carried out. The second was the Judicial Committee, whose tasks were to give advice upon and to draft the decrees and regulations that were to be submitted to the Minister's Council for approval.

The two proved so useful that, far from disappearing with the advent of the Provisional Government at Paris, or even later, with the meeting of the National Assembly elected in early November, 1945, they were in fact consolidated and adapted. The year 1945 also saw the start of important reforms in the administrative grades of the civil service and principal administrative bodies, beginning with the setting up of a National School of Administration.

The steps that were taken remained unaffected by the resignation of General de Gaulle and the entering into force of the new Constitution. On the contrary, succeeding governments have followed in the same path and with the same objects in view. A host of measures have been taken and it will be necessary to make a somewhat summary division, distinguishing between those which have tended to give to the Government, and especially the Prime Minister, a more powerful influence than they had under the Third Republic, and those which have had as their aim the re-establishment of the central Administration and of a unified Civil Service.

Measures tending to reinforce the powers of the Government and especially those of the Prime Minister.

The General Secretariat

The General Secretariat is, of all the means devised to strengthen the unity and efficacy of the Government, the most important. Since 1935 the Prime Minister had had, at the Hotel Matignon, an office distinct from any department. But, despite the reforms carried out in that time by Mm. Flandin and Blum, the General Secretary had never had any precise functions. Since Algiers, on the other hand, it has become an essential part of the technical side of government. In the first place, contrary to tradition, but following the British example, this senior civil servant is now present at Cabinet meetings, even when the President of the Republic is presiding. He prepares a written report of the proceedings.

Secondly, he personifies the government's work whether it be in the relations between the Prime Minister and each of the Ministers, in the relations between the Government and the National Assembly (and also the other Assemblies) or in the relation of the State to its official as a body.

Under the constitutional practice of the Third Republic, the Prime Minister undoubtedly had a decisive political authority, but both legally and technically he lacked many of the means necessary for giving effective unity to his team of Ministers. For example, a middle-ranking civil servant used to be nominated by decree of the President of the Republic, countersigned by the relevant Minister only and without the Prime Minister taking any direct part. Under the new constitutional régime, not only is the Prime Minister individually designated and invested prior to the formation of his Ministry, but also it is he who is responsible for the execution of the laws and it is he who signs all decrees, with the exception of the nomination of the highest civil servants. These latter are nominated by the President of the Republic, but need the counter-signature of the Prime Minister. The Prime Minister is greatly helped by the General Secretary in the exercise of these important new constitutional powers.

There is an analogous case in the introduction of Government Bills in the National Assembly and other Assemblies (Conseil de la Republique, Assemblée de l'Union Francaise, Conseil national economique). At present, no Bill can be sent by a Minister directly to the relevant assembly. All Bills have to pass through the hands of the Secretary General to the Government. On the authority of the Prime Minister, he calls inter-departmental committees to resolve differences among Ministers. He must submit all Bills to the Conseil d'Etat for examination, then lay them before the Cabinet. He must also secure the signature of the Prime Minister to any Bill that is to be introduced into the Assembly.

It can be said that at the present time the Prime Minister has at his disposal an extremely useful body for the integration and co-ordination of the work of the Government, and which is wholly distinct from the political Cabinet of the Prime Minister. Up to date the post of Secretary General to the Government has been occupied by two persons only: by M. Joxe from July, 1943, to February, 1946, and for the last four years with great talent by M. Segalat, Maitre des Requêtes at the Conseil d'Etat.

PREPARATION OF GOVERNMENT BILLS

The compulsory consultation of the Conseil d'Etat in the preparation of all Government Bills is a striking innovation compared with the past. It is true that the Conseil d'Etat, composed of the nominees of the Government, was used extensively for the preparation of laws by both Napoleon I and Napoleon III, who were suspicious of elected Assemblies. It was, however, denied both in law and in fact any part in their preparation under the régimes of the Parliamentary Monarchy (the Restoration Monarchy of Louis Phillipe) and of the Republic (1875-1940). The only exception was in the drafting of regulations for the execution of the laws as passed by Parliament.

The régime inaugurated by the law of July 31st, 1945, had its origins in the Committee of Legislation set up by General de Gaulle in London to compensate for the absence of any parliamentary Assembly (and indeed of the Conseil d'Etat itself), and in the Legal Committee set up at Algiers in 1943 with considerably more authority. This Legal Committee continued to function in Paris from the time of the Liberation up to July 31st, 1945, for during this period there was, aiding the Provisional Government, only a Consultative Assembly without legislative authority. But with the election of a Constituent Assembly its existence was no longer justified, and this is why it has been absorbed into the Conseil d'Etat, the permanent and older institution.

The benefits of a useful experience have not however been lost. The law of July 31st provides that the Conseil d'Etat —without prejudice to its authority in other respects—shall be informed (both the relevant section, then its General Assembly), of all Government Bills; non-Government Bills are not included.

Moreover, a permanent Committee has been created within the Conseil d'Etat with exclusive authority to examine all Bills declared " urgent " by the Government.

It seems that, after swinging from one extreme to the other since the year VIII of the First Republic, a satisfactory equilibrium has been reached in this matter of the legislative authority of the Conseil d'Etat. It has in no way become a rival to the Assemblies as set up under the new Constitution. It remains the direct advisor to the Government and the Goverment is dependent upon the confidence of the National Assembly. Any confusion of function being thus impossible, the work of the Government can benefit from such technical assistance always being available.

FINANCIAL CONTROL

Another long established body, the Cour des Comptes, has seen its authority considerably extended with the new Constitution. Traditionally the Cour des Comptes is an authority for the certification of the Public Accounts, and with no direct contact with the Finance Committees of Parliament or with the actual Departments. Its Annual Report was the only public side of its activities. Article 18 of the 1946 Constitution, however, provides for the Cour des Comptes to assist the National Assembly in the drawing up of the Public Accounts. The Assembly may also request it to undertake any sort of enquiry or study in connection with the public receipts or expenditure or Treasury administration. It plays a predominant role in the Committee which is responsible for certifying the accounts of the State commercial and industrial undertakings, of the nationalised industries and of the semi-public undertakings in which the State owns the majority of the capital. Under a recent law the Cour des Comptes has also been given control of bodies administering the National Insurance Scheme, although the huge funds belonging to these bodies are supplied, not by the State, but by contributions from employers and employees, and are administered by representatives of the interested parties. This extension of the relations of the Cour des Comptes with the Administration and the new responsibilities which have devolved upon it, are bound to have a profound effect on its methods of work, and also on the number of its personnel.

There are several other signs of the strengthening of the Government's powers. The Committee of National Liberation at Algiers had entrusted M. Jean Monnet with a Commissariat for Supply, whose main task was to negotiate with the Allies all questions concerning supplies to the Army, the population and the industry of France. Very soon after the Liberation this temporary post was turned into the General Commissariat of the Plan for Modernisation and Equipment, attached to the office of the Prime Minister. The Plan drawn up in 1946 started to be put into effect in 1947. If it has undergone some modification, especially on account of the Marshall Plan, nevertheless it can be said that this body, which has had to adapt the traditional principle of an annual budget to the making of forecasts covering several years, has rendered remarkable services, of an entirely new kind, to the Government in its relations with Parliament, foreign countries and French producers.

A complete list of the measures taken to allow the Prime Minister to meet the responsibilities which the new Constitution imposes upon him, especially in the field of national defence, would have to include a description of how certain civil and military organisations have developed under his authority. These are not to be confused with those which either in the normal course or by delegation come under the Minister of Defence. Mention would also have to be made of the General Commissariat for Atomic Energy which is attached to the Prime Minister's office. Finally, attached to that same office after being for too long under the Minister of Information, is another innovation dating from Algiers—the Central Service of Documentation. It forms, together with the legislative service, which also comes under the General Secretariat to the Government (and in our opinion, rightly so), one of the most important services at the disposal of the Government.

THE CIVIL SERVICE

We must turn now to the most important reform of all, both in so far as it enhances the authority of the Prime Minister and affects the structure of the Administration. It is the setting up of a Civil Service Directorate (Direction de la Fonction Publique).

Traditionally and without any clearly defined authority, the Minister of Finance handled all questions concerning civil servants, as is the case in England. This is understandable; their salaries have to be provided for in the annual Budget, and he is also responsible for the payment of pensions to those officials who have retired. But this custom was not without its inconveniences: first negotiations would go on between the Departments and the powerful Finance Minister, whereby the personnel of the larger or more important Departments were favoured as against the others; secondly, and most important, the Finance Minister was not able to occupy himself with matters which had no financial import, with the result that each Minister recruited his own staff more or less as he thought fit. Since the civil servants had set up powerful unions, or federations of associations and of trade unions, which were not limited to given Departments, and also in view of the fact that the extension of State activity and social legislation had created new needs, it was all the more deplorable that there was no governmental body responsible for the formulation and execution of a general policy for the Civil Service.

Other urgent reasons for reform, in addition to the long-standing defects mentioned above, arose out of the 1940-45 war. The French Civil Service was in complete disorder from 1940 onwards. There were no less than six types of officials:

(i) Those pre-war officials who had been able to continue normally;

(ii) Those of them who had been dismissed under the Vichy regime and who were reinstated with the Liberation;

(iii) Those recruited during the time of the Vichy régime often only on a temporary basis but of whom only a small number were at the time of the Liberation disqualified from holding office;

(iv) Those recruited to the permanent establishment at the time of the Liberation from among the Resistance Movement, both at home and overseas, and who replaced those officials, recruited before and during the war, pensioned off or dismissed under the administrative purge;

(v) Officials purged but subsequently reinstated, either as an act of grace or upon their dismissal being annuled on appeal to the Conseil d'Etat; and

(vi) Finally, the young people who since the end of the war had passed the qualifying examinations and entered into the Service in the normal manner.

Such a variety, not to say disorder, was not conducive to the strengthening of the administration, the weaknesses of which had already become evident before the second World War, and only parts of which were to remain in existence (other parts such as Food, Supply and Information being largely temporary).

The setting up of a central body under the direction of the Head of the Provisional Government was inevitable if an exact survey of the numbers was to be made, a general policy laid down in matters of recruitment, classification and salaries, and a general statute for the Service as a whole was to be elaborated. This has been done. The Civil Service and the reform of the administration was entrusted in 1946 to a Ministerial department. It can be said without fear of error that the new Civil Service Directorate, since October 9th, 1945, under the same permanent head, M. Gregoire, has become one of the essential parts of the machinery of Government, invaluable in its service to the two centres of gravity within the Government, the Prime Minister and the General Secretariat. It is on these grounds that it has been included in those measures which tend to strengthen the unity and continuity of the work of the Government, under the direction of the Prime Minister. It also led to the carrying through of measures

which have as their more specific purpose the re-establishment of the administration.

Measures tending to re-establish the Administration and to provide a coherent Civil Service.

If France has long been a highly centralised country, its central administration has always been in compartments. A Civil Service such as the English never existed. This is why the Civil Service Directorate, which has not a very large staff, has had to face within a few years such an extraordinarily heavy task.

It was first of all occupied on a survey of the situation. It carried out an exact census of all in public employment. It afterwards arranged a reclassification whereby transfers were made from those offices which were overstaffed or which had been serving merely a war-time need and were now done away with, to offices in need of additional personnel. Attention was then devoted to four essential problems in a country, impoverished in resources and manpower, which must obtain the maximum of results with a minimum of personnel:

(i) The recruitment and training of civil servants, with special attention to the Ecole Nationale d'Administration and the Centre des Hautes Etudes administrative;

(ii) A legal code for the Service;

(iii) The salaries, pensions and welfare of civil servants;

(iv) Reform in the methods of work and in the distribution of functions.

But before we take a look at what has been done in these four fields, we must note the important reform that was carried out by the Ordinance of October 9th, 1945, and confirmed by the law of October 19th, 1946. Henceforth officials in the central Administration were classified into four main grades, allowing for movement from one to the other by the promotion of the best from the lower grades. The top grades are the *Administrateurs* who perform the highest civil functions in the State; below are the administrative secretaries (*sécretaries d'administration*) who are the most senior of the executive personnel; below them again are the administrative clerks or assistants; and the lowest grade is made up of the typists, attendants, etc.

This is not the place for a comparison with the organisation of the Civil Services of other countries, but the above remarks are essential for an understanding of what follows.

The problem of the setting up of a National School of Administration existed throughout the whole of the 19th century. Since 1872 there was a privately run school, famous as the Ecole Libre des Sciences Politiques, that prepared for entry into the Diplomatic Service and the highest posts in the State the young men for whom a university degree in history or law was insufficient to their needs. The attempt made in 1936 by M. Leon Blum's Government to set up an Administrative School to replace the existing training was defeated in the Senate.

This position could not be maintained after the Liberation. Thus under the Ordinance of October 9th, the Ecole Nationale d'Administration was immediately founded. Its aim is to recruit by means of an annual competitive examination, all the higher ranking civil servants to the central offices of the various Departments (excluding, however, the Departments of Justice and Education, the Corp of Engineers, the chemists, doctors and the Army). It also recruits for the main administrative bodies such as the Conseil d'Etat, the Cour des Comptes, the Foreign Office, the Inspectorate of Taxes and for the administrative and economic services.

The aim has thus been to give an "equal chance" not only to the young men and women with degrees whatever their origin, but also to the young junior officials who have not had the chance of a prolonged university education. The aim has also been to break down the bulkheads separating the different Administrative Bodies and Departments, and to dispel the spirit of a coterie which kept away the young people who lacked a certain social standing.

The students are first considered as trainees and the training aims at the building up of their character and experience as much as their knowledge. Thus half of the first year is spent not at the School but articled to responsible chief officials such as the Prefects of Départements, Controllers in North Africa, Governors of Overseas Territories, etc.

After studying for 18 months at Paris the students are classified in order of merit within their own section (there are four sections: General Administration, Financial and Economic Affiairs, Social Questions, and Foreign Affairs). The best from each section form an élite, similarly graded in order of merit, eligible for specially coveted appointments.

In the third year the students have the chance to perfect themselves with a view to their eventual appointment, and also to spend a fairly brief period in some large private enterprise.

The School first provided places for ex-Service men who had been in the Resistance or deported. The annual output of young administrators has been 40-100. It is estimated that the number of candidates at the double entrance examination at the end of 1950 will be 1,500, of which the School will take 140.

The Ordinance of October 9th, 1945, did not confine itself to recruitment. It also envisaged the further training of officials. Thirty of the more outstanding administrators between the ages of 35 and 45 have since 1947 been selected annually to spend a period of three months at the Centre des Hautes Etudes administratives. Under the direction of a qualified senior civil servant they make an intensive study on an important subject chosen in advance; for example, the problems of administrative decentralisation, of parish life, of the structure of the French Union, of the organisation of the nationalised enterprises. The aim is two-fold: to prepare officials capable of holding senior posts and for which their specialist qualifications are inadequate; and secondly to bring to the notice of the Government a certain number of distinguished officials capable of rendering important services to the State.

There has also been worked out a system whereby officials of the lower grades will be encouraged to seek promotion to a higher grade. A certain fixed proportion are so promoted at each level.

By means of the judicial decisions of the Conseil d'Etat and through administrative practice there has been gradually built up a body of rules regulating the classification of civil servants, their rights and duties, promotion and the posts they were qualified to hold, etc. The civil servants had been the first to demand the codification of their legal position but now, finding sufficient guarantees in the body of rules and in their professional organisations, they no longer press their claim very strongly.

The important law of October 19th, 1946, drafted by the Civil Service Directorate, arose out of the political circumstances at the time of the Liberation.

One of its innovations is the introduction of selected promotion from one grade to another, and the doing away with the seniority rule except for promotion within the same grade. But its main significance is that it sanctions formally elected representation of civil servants on the Committees of Promotion, and also the official participation of their professional organisations on all bodies of general interest, including the Conseil Supérieur de la Fonction Publique. This is an experiment which could have serious consequences if the Government and the representatives of the civil servants were frequently opposed to one another, or entered into collusion contrary to the public interest. But it can also prove of great benefit if both sides bear in mind the general interest and their responsibilities to the public.

The 1946 Constitution recognised the right to strike within the limits regulated by law. No such law relating to civil servants has so far been passed. Strikes have sometimes broken out among civil servants but the Government has been unable to take any coercive action. It seems that the Assembly refuses to pass a law forbidding civil servants the right to strike, except in the cases of Prefects, Public Prosecutors and the Police.

The third aim of the Civil Service Directorate has been to bring some order

into the scale of salaries allowed to civil servants. For instance, the salaries of the teaching profession have been considerably raised in relation to the rest. There has been a particularly close examination of the spread of salaries which had become ridiculously narrow as a result of the raising of the minimum salary and the allocation of uniform cost-of-living bonuses. The whole of these have at the same time had to be readjusted to the cost-of-living, taking as a base the official at the lowest rung of the ladder. This double operation called "reclassement indiciaire" has been, not without difficulty, effected by a very important regulation of July 10th, 1948, and by the issue of auxiliary tables. It could not be carried out all at once however, because of the huge sums of money involved. Between 1948 and 1950 two payments have been made, and the two following payments will be effected in three stages, the first of which is under way.

The reclassification of salaries has been accompanied by measures (regulation No. 2271 of December 31st, 1946) taken to bring civil servants within National Insurance scheme set up for the employees of private firms. This was followed by the law of September 20th, 1948, which brought up to date the old system of pensions (previously regulated under the law of June 9th, 1853, very remarkable at the time, but which, despite the reforms of April 14th, 1924, had become unworkable).

Various reforms have also been carried out to improve the methods of administrative work and to re-group the administrative services. Mechanical aids have been introduced on a fairly wide scale, and thus it is hoped that the cost of the extra services now demanded from the State might be offset by a more profitable use of personnel.

Certain of these reforms have already proved of real benefit, for example, those concerning the organisation of the numerous immigrants and the formalities of naturalisation for those resident in France who wish to take French nationality. Except, however, for the discontinuing of certain war-time services, such as food rationing, and for the reduction in appropriations in the case of others, it must be admitted that no fundamental "administrative reform" that in any way matches the promises that have been freely made to the tax-payers had yet taken place in France.

The cause is not far to seek. The administrative and political division of the country into *départements*, which date from the Revolution, has been maintained. The division into provinces or regions that was attempted by the Vichy Government and adhered to at the time of the Liberation has failed as a measure providing for an administrative authority mediating between the *département* and the Government.

The Vichy régime having trodden under foot the liberties of the local authorities the 1946 Constitution, as a reaction, has affirmed the intention of developing them. Notably, the legal representative of the *département* is no longer the State's chief official, the Prefect; this title has been conferred upon the President of the *département's* elected General Council.

Yet when the attempt had to be made to put the reform into effect, the difficulties were great. The State had started to give the status of government officials to the heads of division in the "préfectures," who are the most senior of the *département's* officials. As however the problems of reconstruction, of manpower, of finance, etc., are national problems, and as numerous enterprises (the coal mines, electricity, the banks, insurance) have been nationalised, and as a large number of the "communes" have been unable to balance their budgets without State assistance, it is unlikely there will be very much decentralisation, or that, if decentralisation were to take place, there would be any great economy in personnel.

Conclusions

The above account, though somewhat of an outline only touching upon certain essential points, does however illustrate how, in contrast to the 1914-18 war, the terrible ordeal of this last war and the present needs of the national economy have brought about certain changes which are probably the most important since the time of Napoleon I.

The reforms in the administrative structure have not escaped all criticism—notably, that whereby the existing personnel was re-classified. There has not yet been sufficient time to put to the test the experiment in collaboration between the heads of the Civil Service and the professional organisations. At one time it was to be feared that each ministerial Department would become a political stronghold of the party to which the Minister belonged. It is not unimportant that a new spirit is in evidence which has broken down the barriers between the various administrative bodies and that a genuine effort is being made to bring forward from all ranks the young people who are capable of reaching highest office. Moreover, in spite of the reduction in the purchasing power of the salaries, one of the calamities of the 1919-29 period has this time been avoided—large withdrawals from the Service.

As for the measures taken to give to the Government and especially to the Prime Minister, placed as he is at the centre of action, much more powerful facilities, both legal and technical, than existed under the Third Republic, these can never in themselves fully compensate for political weakness, particularly the weakness of a government that is a coalition. They do nevertheless form a means of avoiding the worst consequences of such weakness, and provide a framework which will defend the public weal, the unity and continuity of the State against the attacks of sectional interests and factions, against the shortcomings, the unexpected and against negligence.

The events of the last ten years have furnished a great lesson. The democracies have not only the right but also the duty to protect themselves from within and to forestall the disintegration, the anarchy and the totalitarianism that surely follows. This is why the French Republic has taken advantage of the capacity for recovery and regeneration in her people. In using her rightful authority to strengthen herself structurally she has put herself in a better position to meet her obligations to the nation and to the other members of the international community.

The District Audit Service

By Alan Wilson

IN an appendix to this paper a note is given of (a) the local authorities with whose accounts the district auditors are concerned; (b) the organisation of the district audit service; and (c) the more important statutes, orders, etc., relating thereto. In what follows, the words "the Act of 1933" are used to denote the Local Government Act, 1933.

There are three systems of audit of the accounts of local authorities in England and Wales prescribed in Part X of the Local Government Act of 1933—the district audit system, the professional audit system and the elective audit system (borough auditors). The two latter systems can apply only in the case of certain boroughs and their operation is further restricted by the fact that some general Acts make certain accounts of all local authorities subject to district audit. These general Acts are the Rating and Valuation Act, Education Act, National Health Service Act, National Assistance Act, Children Act and Coast Protection Act, under all of which separate accounts are required to be kept in boroughs not otherwise subject to district audit.

The elective audit system was introduced by the Municipal Corporations Act, 1835, and retained in the Municipal Corporations Act, 1882, but by virtue of the Act of 1933 is now applicable only to boroughs where either district audit or audit by practising accountants was not in force at the commencement of the Act (i.e., had not been applied by local Act) or has not since been adopted under Sec. 239. The accounts are to be submitted to the auditors (two elected by the local government electors for the borough and one appointed by the mayor), with the necessary vouchers and papers and audited by them, but they are under no obligation to give a certificate or to furnish a report. This system still survives (sometimes accompanied by an examination of the accounts by a firm of accountants) in a small number of boroughs, including at least one county borough.

The professional audit system was introduced by the Municipal Corporations (Audit) Act, 1933—"An Act to enable Municipal Corporations to provide for the audit of their accounts and of the accounts of their officers by district auditors or by other qualified accountants"—which was repealed and re-enacted as Section 239 of the Act of 1933. This section enables boroughs to adopt by special resolution either district audit or "professional audit" by persons possessing specified professional qualifications. A professional auditor is engaged "for such period and on such terms as to remuneration or otherwise as the council of the borough think fit"; he may require from any officer of the borough such books, deeds, vouchers, etc., and such information and explanations as may be necessary for the performance of his duties, and he is required to include in or annex to any certificate given with respect to the accounts such observations and recommendations as he thinks necessary or expedient. Under the provisions of Section 239 of the Act of 1933, two county boroughs and 66 non-county boroughs have elected to come fully under district audit in addition to the nine county boroughs and 58 non-county boroughs so audited under former enactments. The accounts of the 28 Metropolitan Boroughs were placed under district audit at their inauguration in 1899.

It is estimated that about 75 per cent of all expenditure of local authorities in 1949-50 will be subject to district audit as compared with about 63 per cent in 1938/39, and that 39 per cent and 56 per cent of the expenditure of all county boroughs and all non-county boroughs respectively will be so audited for 1949-50 as compared with 26 per cent and 53 per cent in 1938-39. These proportions take no account of the expenditure of boroughs not formally audited by district auditors but subject to examination by them for the purpose of certifying claims for grants from government departments. This examination now extends to the

annual review of the whole of the accounts of county boroughs receiving equalisation grants under the Local Government Act, 1948, and of non-county boroughs situated in the counties which receive such grants.

The origin of district audit is to be found in the Poor Relief Act of 1601, which required the churchwardens and overseers "to yield up to two justices a true and perfect account of all sums of money received or rated and sessed and not received." The poor rate was the first rate leviable throughout the country on a standard basis and as non-payment of the rate might involve distress and imprisonment it is consonant with the ideas of justice in this country that those called upon to pay the rate should have been given a guarantee that the money raised would be properly accounted for and spent on lawful purposes only. Later Acts elaborated the procedure and at the threshold of the reforms of the 1830s a local government audit system administered by justices had been built up to safeguard the collection and administration of the poor rate. This provided for the public examination of the accounts at the end of a fixed period, compulsory production of accounts, verification of accounts by oath or affirmation, inspection of accounts and objection thereto by ratepayers, disallowance of unfounded charges appearing in the accounts and an appeal procedure to quarter sessions. The accounts were of course personal cash accounts, and disallowance of a charge was thus equivalent to surcharge on the person rendering the account, for the balance against him would thereby be increased. All these features (or parallel features) are present in the modern district audit system. To complete this brief note on the jurisdiction of the justices there may be mentioned the special sessions to pass the accounts of highway surveyors. These sessions were instituted under the Highways Act of 1835 and were abolished by the Highways and Locomotives (Amendment) Act, 1878, on transfer of the duty to the district auditor.

Some of the powers and functions of the justices in relation to parochial accounts were with amendment, vested in "auditors" appointed under the Poor Law Amendment Act, 1834, but it seems that the justices retained until 1844 the power of review of the decisions of such auditors. By the Poor Law Amendment Act of 1844 provision was made for the appointment of "district auditors" with extended powers closely similar to those now contained in the Act of 1933. In 1868 the Poor Law Commissioners assumed direct responsibility for the appointment of district auditors and by the District Auditors Act, 1879, provision was made for their remuneration and expenses to be paid out of moneys provided by Parliament, subject to the recovery of the cost by means of a stamp duty payable by the local authorities whose accounts were audited. This system is still in operation. Since 1844 the accounts of every new type of local authority created by general Act have been made subject to district audit, the latest in date being the River Boards. The district auditors are the oldest organised body of auditors in the country.

During the past 30 years the services of the district auditors have been utilised to certify the claims of local authorities for grants from various government departments. This work is to be distinguished from the duties with which the auditor is charged by statute (and with which this article is mainly concerned), although in certain instances his certification is required by Regulations defining grant conditions, etc. The claims at present number about 14,500 per annum against 12 Departments. The most recent reference to them is to be found in the First Report of the Local Government Manpower Committee (Cmd. 7870) wherein recommendations are made for the simplification of grant conditions and standardisation of forms. The district auditor's function is to certify that the claims represent a correct and complete statement of the net expenditure on the services concerned and that the conditions of grant have been complied with. In effect, his duty is to certify, subject to any adjustment finally settled by Departments, the incidence of charge of grant aided expenditure as between rates and taxes (see para. 9 of Appendix VII of the Report.)

FUNCTIONS

A discussion of the district auditor's functions frequently centres exclusively round his duties of disallowance and surcharge. We shall come to these matters later on. In the meantime, it should not be overlooked that his first duty is to conduct an efficient audit of the accounts. In practice this duty includes advice on accounting methods, financial safeguards, distribution of duties, elimination of waste, etc. It is believed that the knowledge acquired by the auditors of comparative local government accountancy in various parts of the country is also of special service to authorities in the prevention and detection of fraud. Let us, then, consider the nature and form of the accounts with which he is concerned.

The first point to note is that basically the accounts are concerned with the collection of a form of compulsory tax (the rates) leviable at varying poundages throughout the country and its spending. Parliament has always controlled taxation with a jealous eye, and as already indicated it was clearly felt that having authorised a local tax, the Poor Rate, it was necessary to ensure the strict accountability of those entrusted with its collection and disbursement. A hundred years ago the total sum annually expended by local authorities in England and Wales was about £12 million. Of this amount more than half was spent on poor relief, the general expenditure of municipalities being under £1 million. The poor rate subsequently (up to 1925) provided funds for many other purposes —e.g., education and the general purposes of county councils. The broad situation to-day is that local government expenditure (gross, including expenditure from loans) exceeds £1,000 million per annum of which nearly £300 million is found by general, special and drainage rates, and about £320 million by the Exchequer in the form of government grants. The general position therefore remains the same, namely that local authorities are administering services financed by taxation, with the added emphasis that in addition to the product of local taxation their activities are attracting constantly mounting grants provided by national taxation. The levy of taxes is, of course, closely related to the objects on which their produce is to be expended, and Parliament has not only carefully defined the manner in which local taxes (rates) are to be assessed and collected (including, in some instances and for some purposes, the specification of maximum levies), but also, through definition of powers, the purposes on which the money may be spent (including indeed, the prohibition of expenditure on certain purposes). This overall parliamentary control of local finance is perhaps not always sufficiently appreciated, although it is a natural corollary of the often quoted generalisation that local authorities are the creation of Statute.

At the same time, local government bodies (numbering some 13,500, including the parochial authorities), enjoy in most respects a lively independence. There are, therefore, as it were, three parties concerned with local government expenditure—Parliament, the rate and tax payer and the local authorities. The district audit system is a statutory method of safeguarding the financial interests of the three parties. It provides an examination of accounts by an independent officer charged with the duty of ensuring that expenditure is within the law and that losses are recovered; it gives to the ratepayer a right of objection to any item in the accounts; it requires the auditor to submit a report to the local authority (except in the case of parochial authorities) and at all points permits a right of appeal against his decisions.

The nature of local government accounts may be further considered in relation to commercial accounts and also the accounts of the nationalised industries (to which audit arrangements similar to the district audit system have not been applied). In a comparison with commercial accounts there is the clear distinction between activities for the public welfare financed by compulsory contribution and activities conducted for private profit, and from this comparison it is not necessary to except the "trading" undertakings of local authorities, for the general rate fund is invariably responsible for losses. The same distinction is to be observed as between local government expenditure and that of the nationalised

industries. The latter are concerned with the provision of services voluntarily accepted and paid for on the basis of value received by the individual. The National Health Service is in a special class as a nationalised activity in that while the accounts of all local authorities under the National Health Service Act are subject to district audit, all other functions of the service are directly financed by the Exchequer and the ultimate audit responsibility thus rests with the Comptroller and Auditor-General. Critics of the district audit system sometimes speak of it as a "legal audit" and compare it with "the freedom of commercial audit." A brief scrutiny of the Companies Act, 1948, will show that this is hardly fair to Company auditors.

The influence of statutory provisions on the form of local government accounts is very noticeable. Certain Acts define in terms the entries to appear in specified accounts to be kept under them—e.g., the Housing Act, 1936—while the detailed annual returns of income and expenditure required to be made to the Minister of Health under Part XI of the Act of 1933, and subsequently laid before Parliament in summary form as "Local Government Statistics, England and Wales," directly influence the form of final accounts in general. When accounts are subject to district audit, the Minister of Health may make regulations dealing, *inter alia*, with (a) the financial transactions which are to be recorded in the accounts and (b) the mode of keeping the accounts of the authority and their officers and the form of those accounts (Sec. 235(1) of the Act of 1933). The standardisation of method through Accounts Orders associated with the work of the district auditors was followed in various Poor Law Accounts Orders commencing in 1847 (these Orders included the regulation of overseers' rate accounts). An Order of 1880 was concerned with the accounts of the bodies later to become urban and rural district councils. Orders of 1926 prescribed in detail the forms of rate books, ledger accounts, etc., for use in the levying, collection and appropriation of general and special rates and the duties of various officers in relation thereto. Finally, the Accounts (Boroughs and Metropolitan Boroughs) Regulations, 1930 (although directly applicable only to borough accounts subject to district audit) contain what may be regarded as the definitive general rules of local government accountancy. These Regulations were framed with the agreement and assistance of the Association of Municipal Corporations and the Institute of Municipal Treasurers and Accountants.

Sir Charles Renold, Chairman of the Institute of Management, recently observed: "The extreme importance of the technique of accountancy lies in the fact that it works in the most nearly universal medium available for the expression of facts, so that facts of great diversity can be presented in the same picture." The accounts of local authorities are indeed a mirror of their manifold activities under a mass of Acts of Parliament and Orders.

STATUTORY POWERS AND DUTIES

I propose to devote the remainder of my space to a short outline of the statutory powers and duties of district auditors, followed by some brief discussion of certain special points on disallowance.

The Act of 1933 (Part X), after defining the authorities whose accounts are to be subject to district audit, provides for the appointment of district auditors by the Minister, their assignment to districts and their remuneration and expenses.

". . . The district auditors are a body of officers appointed by the Minister of Health but they do not take directions from the Minister of Health. They are independent of him and they have duties laid upon them by Statute." (Mr. Neville Chamberlain—H.C. Deb., December 13th, 1927, Vol. 207, 1024-5.)

Towards the cost of the service local authorities make a contribution (estimated to cover the whole amount), by means of stamp duties assessed on individual financial statements of income and expenditure from which the duty is computed. A substantial part of the duty is recovered by the local authorities from the Exchequer through the medium of apportioned charges to claims for grant, for the certification of which the district

auditors are, in general, responsible. These financial arrangements, apart from other factors, emphasise the independence of the district auditor. The accounts are made up to March 31st in each year, and audited as soon as may be thereafter. On receipt of the appointment from the auditor the local authority is required to give fourteen days' notice in one or more newspapers circulating in the district (public notice in the case of parish councils) of the deposit of the accounts and deeds, contracts, vouchers and receipts relating to the accounts, which for seven clear days before the audit must be open to the inspection of all persons interested. A district auditor may requisition in writing the production before him of all books, deeds, contracts, accounts, vouchers and other documents which he may deem necessary for the purpose of the audit and may require any person holding or accountable for such document to appear before him and may require such persons to make and sign a declaration as to the correctness of the document. Any person neglecting or refusing to comply with any such requirement is liable on summary conviction to a fine not exceeding forty shillings, and any person knowingly and wilfully making or signing any such declaration which is untrue in any material particular is to be deemed to be guilty of an offence under the Perjury Act, 1911. These far-reaching powers are not often or lightly used, but on necessary occasions are of great assistance to the auditor in his endeavours to establish the truth. A local government elector for the area to the accounts of which the audit relates may be present or may be represented at the audit and may make any objection to the accounts before the auditor, who must give a decision thereon and must on application, state in writing the reasons for his decision. The objector then has a right of appeal against the decision to the High Court or, if the sum involved is not more than £500, an alternative right of appeal to the Minister. Objections at audit occur, on average, at the rate of two or three a month. At the conclusion of the audit the district auditor is required to certify his allowance of the accounts subject to any disallowances or surcharges that he may have made. Within fourteen days of the completion of the audit he is required to send a report on the accounts to the authority, which has to take the report into consideration at the next ordinary meeting or as soon as practicable thereafter (in the case of parish councils and parish meetings the report is sent to the Ministry). The number of reports sent to local authorities each year is about 2,500. Many of them are far from formal documents and contain not only recommendations designed to secure more efficient management, but also discussions of financial questions and such matters as the conclusions reached at conferences with members, chief officials, etc.

The Minister may at any time direct a district auditor to hold an extraordinary audit of any accounts subject to his audit, which may thereupon be held after three days' notice in writing given to the authority or person whose accounts are to be audited. Extraordinary audits are usually directed to enable immediate investigation to be made of known or suspected frauds or irregularities, but the procedure may be used for the investigation and settlement of other issues.

DISALLOWANCE AND SURCHARGE

It remains to consider Section 228 and the six following sections of the Act of 1933 which deal with the allowance and disallowance of accounts, surcharge, appeals against the auditor's decisions, recovery of sums surcharged and legal costs. Disallowances and surcharges average about forty to fifty per annum, of which the majority are concerned with losses arising from fraud.

Section 228(1) begins with the words: "It shall be the duty of the district auditor at every audit held by him: (a) to disallow every item of account which is contrary to law. . . ." The sub-section therefore charges the auditor with statutory duties. As we shall see later, he can be relieved of his duty of disallowance by a sanction of the Minister. The auditor's duties are set out under six paragraphs in the sub-section. Paragraph (a) requires the disallowance of every item of account which is contrary to law. The expression "every item of account" is not confined to items of expenditure

but extends to such items as balances and credits. It also includes part of an item. Paragraph (b) requires the surcharge of the amount of any expenditure disallowed upon the persons responsible for incurring or authorising the expenditure. Surcharge under (b) following, as it does, disallowance under (a) is called "consequent surcharge," but where no question of recovery arises it is possible for a disallowance to be made under (a) without further action under (b) (see e.g. West Cheshire Water Board v. Crowe [(1940 1 K.B. 793: (1940) 2. A.E.R. 351] which was an unsuccessful appeal against a disallowance of interest illegally capitalised in the accounts). Paragraph (c) directs the auditor to surcharge any sum which has not been duly brought into account upon the person by whom that sum ought to have been brought into account. This form of surcharge is not necessarily concerned with sums improperly withheld. There may, for example, be genuine uncertainty as to liability to account for fees received because of the indefinite terms of an officer's appointment and in one well-known case it was held that an inspector of weights and measures was liable to surcharge if he did not collect the statutory fees notwithstanding the directions of the council not to collect them (R. v. Roberts [(1901) 2 K.B. 117]). Paragraph (d) directs the auditor to surcharge the amount of any loss or deficiency upon any person by whose negligence or misconduct the loss or deficiency has been incurred. Surcharges under this paragraph, in cases other than of fraud, are infrequent and appeals to the High Court have been few —the three cases since the passing of the 1933 Act being Davies v. Cowperthwaite [(1938) 2 All.E.R. 685] wherein the Court directed the auditor to make a surcharge on appeal by an objector against the auditor's decision not to surcharge; re Hurle-Hobbs (*ex parte* Riley and another) [(1944) unreported]—an unsuccessful appeal against a surcharge for loss occasioned by the withholding of material evidence from a Council; and re Dickson [(1948) 1 All.E.R. 713] wherein the auditor's surcharge on a "cost plus" contractor was reversed on the ground that the power of surcharge was not exercisable in the case of any person who is not a member, officer or servant of the authority. The measure of the district auditor's duty under paragraph (d) may be discerned from the judgments in re Hurle-Hobbs (*ex parte* Riley and another)—"It would not be right to confuse zeal, misplaced enthusiasm, error or even lack of judgment with negligence or misconduct. Neither an Alderman nor a Town Clerk is an insurer against loss. . . . Only in the plainest cases of negligence or misconduct is this power (of surcharge) likely to be applied. When that plain case does arise, then it would be wrong not to apply the power" (Cassels, J.). "I am satisfied that this money has been thrown away owing to the neglect of the appellants to do their duty to the Council and to the ratepayers. That neglect amounted to misconduct because it was deliberate" (Atkinson, J.). In one special instance the Act itself (Sec. 228(2)) declares a loss to be a loss within the meaning of Section 228(1)(d), namely a loss represented by a charge for interest or any loss of interest occasioned by failure through wilful neglect or wilful default to make or collect sufficient rates or to issue sufficient precepts or to collect other revenue. Paragraph (e) requires the auditor to certify the amount due from any person upon whom he has made a surcharge and paragraph (f) requires him to certify at the conclusion of the audit his allowance of the accounts subject to any disallowances or surcharges he may have made. Then comes a proviso to the sub-section—"Provided that no expenses paid by an authority shall be disallowed by the auditor, if they have been sanctioned by the Minister."

This proviso re-enacts in substance the Local Authorities (Expenses) Act, 1887 —a statute originally introduced to enable sanction to be given to expenses to be incurred in the celebration of Queen Victoria's Golden Jubilee but the principle of which has ever since provided a simple method of Ministerial review of payments made or proposed to be made without legal authority. The procedure is frequently set in motion by the district auditors themselves, who permit applications to be made to the Minister during the course of the audit. The general effect of the proviso is to reduce very

greatly the number of cases in which the district auditor has to consider disallowance and to provide a desirable elasticity in day-to-day administration. In practice, the power under the proviso is not used to cover an expense against which there is a statutory prohibition or to provide annual sanction of an expense continuing from year to year (e.g., a superannuation allowance in excess of statutory provision). Neither is it used to remove from the auditor's jurisdiction expenses to which a local government elector has objected unless the latter is agreeable to leave the matter for the initial consideration of the Minister through the means of an application for sanction. The Minister's sanction does not, it should be noted, legalise expenses which are illegal, but precludes the district auditor from disallowing them.

The right of appeal by an objector to the High Court or Minister against the district auditor's decision has already been noticed. Any person aggrieved by a disallowance or surcharge has a similar right of appeal and the Court or Minister on such an appeal has power to confirm, vary or quash the auditor's decision and to remit the case to the auditor with such directions as are thought fit. Further, a person surcharged may, whether or not he makes an appeal, apply to the High Court or Minister for a "declaration" that in relation to the subject matter of the surcharge he acted reasonably or in the belief that his action was authorised by law, and the Court, or Minister, if satisfied that there is proper ground for doing so may make such a declaration and may relieve him, wholly or in part, from personal liability in respect of the surcharge. A declaration is frequent in the case of consequent surcharges (i.e., surcharge consequent upon a disallowance), but relief is unlikely to be granted in the case of a direct surcharge under paragraph (d) (see above) owing to the degree of culpability likely to be involved in such a case. A member who has been surcharged a sum in excess of £500 and who does not secure a declaration of relief is disqualified from being elected a member of a local authority for five years. Every sum certified by a district auditor to be due from any person has to be paid to the treasurer of the authority within fourteen days of the certificate (or disposal of an appeal) and thereafter becomes recoverable on complaint made or action taken by or under the direction of the district auditor either summarily or otherwise as a civil debt. Any expense incurred by a district auditor in defence of any allowance, disallowance or surcharge is, except as may be otherwise ordered by the Court or Minister, to be reimbursed to him out of the fund to which the account subject to audit relates, and the Court or Minister may make such orders as may seem fit in regard to the payment out of that fund of the expenses incurred by the appellant or applicant or any other party to the proceedings.

It remains to consider certain special points relating to the functions of district auditors. In this regard I shall say no more about auditing, allowance of accounts (para. (f) of Section 228(1) of the Act of 1933) or surcharge (paras. (b), (c), (d) and (e) of the sub-section), but will confine discussion to disallowance (para. (a)). Indeed, it may be further limited to a consideration of the decisions of the House of Lords in Roberts v. Hopwood and others [(1925) A.C. 578; 89 J.P.105; 133 L.T. 289], the Poplar wages case. My ground for proceeding on this apparently narrow front and the reason for the great importance of this case is that it was concerned with the exercise of an express statutory discretion and is to-day necessarily noticed in any review of the powers of local authorities. It is therefore to be distinguished, for example, from cases where a local authority pays more than is permitted by statute (e.g., the financial loss allowances of specific amounts payable to members under Section 112 of the Local Government Act, 1948) or expends money on purposes for which it has no legal authority either direct or reasonably incidental (e.g., a gratuity to an officer for services in prior years which had already been provided for in fixing his salary—see Lee and Others v. Magrath ((1934) 2 K.B. 415) or expends money on a purpose prohibited by statute (e.g., the salary paid to a person appointed to a paid office under a local authority who is, or within the previous twelve months has ceased to be, a mem-

ber—see Section 122 of the Act of 1933). All these cases are relatively easy to recognise as examples of illegality. Roberts v. Hopwood, however, was concerned with the exercise of a power coupled with a discretion given by the operative statute and is thus of interest not only in that regard but also in regard to the exercise of unqualified powers generally by local authorities. The following is a summary of the case:

By Section 62 of the Metropolis Management Act, 1855, the Council as the successor of the Board of Works, "shall . . . employ . . . such . . . servants as may be necessary, and may allow to such . . . servants . . . such wages as [the Council] may think fit."

In the year ending March 31st, 1922, the Council, as in the previous year, paid to its lowest grade of workers, whether men or women, a minimum wage of £4 per week, notwithstanding that the cost of living had fallen during that year from 176 per cent to 82 per cent above the pre-war level, the council being of the opinion that £4 was the least wage which a local authority ought as a model employer to pay for adult labour. The district auditor found that as to part, these payments were not wages but gratuities to the employees and were contrary to law, and, starting with the pre-war rate of wages paid by the council, added a bonus proportionate to the increase in the cost of living and a further £1 by way of margin and disallowed the excess over that sum and surcharged the same upon the councillors responsible for the payments.

Reversing the decision of the Court of Appeal, held: (1) that the discretion conferred upon the council by the Statute must be exercised reasonably and that the fixing by the council of an arbitrary sum for wages without regard to existing labour conditions was not an exercise of that discretion; (2) that an expenditure upon a lawful object might be so excessive as to be unlawful and that to the extent by which the amount exceeded legality the auditor was bound to disallow it and surcharge the excess upon the persons responsible; (3) that the disallowance and surcharge were therefore rightly made.

Without presuming to pronounce authoritatively on the issues arising from the case, it is I think permissible to make certain practical observations. In the first place, this case is concerned with payments for value received. It is therefore not possible to rely on the case for support to a proposition that a district auditor would disallow expenditure on a legal object (e.g., the provision of parks, houses, water supply, etc.) because in his opinion the local authority's scheme for such provision was too ambitious. It would seem, indeed, from the fact that there is no decided case in which a district auditor has disallowed expenditure in such circumstances that the normal checks and balances of council discussion, public opinion, departmental supervision of borrowing powers and, possibly, audit reports have been sufficient to prevent any serious disequilibrium in this respect. Secondly, it seems clear that the respondents failed because instead of addressing their minds to what was proper remuneration for the services rendered, "they took an arbitrary principle and fixed an arbitrary sum which was not a real exercise of the discretion imposed on them by statute" (per Lord Buckmaster). This I believe to be the crux of the case. The standard of conduct which, it is to be deduced, would have satisfied the requirements of the statute does not represent anything higher than one would expect from the members of a public body, namely, that having before them the facts relevant to the question in issue, they should fairly apply their minds to its solution in the best interests of the ratepayers. Thirdly, the case was concerned with the human and difficult subject of wages and there is a tendency to concentrate on this aspect rather than on the broader issues raised of the legality of items of expenditure. Indeed, it has recently been claimed that quite apart from the district auditor, the Court itself ought not to have any jurisdiction to review wages paid by a local authority. This, of course, is political argument. The law as it stands undoubtedly provides that the whole of the expenditure of the local authority is subject to review by the district auditor, subject to the statutory appeals from his decisions.

APPENDIX

A

Local Authorities subject to District Audit

(1) The authorities and accounts subject to audit by district auditors are described generally in Section 219 of the Local Government Act, 1933, and are as follows: —

County Councils	63
County Boroughs	11
County Boroughs (Rating, National Assistance, Education, National Health Service, Children, Coast Protection and Motor Tax accounts only)	72
Metropolitan Boroughs	28
Non-County Boroughs	124
Non-County Boroughs (Rating and Coast Protection Act only)	188
Urban Districts	572
Rural Districts	476
River Boards	(a)
Port Health Authorities	30
Catchment Boards and Drainage Boards	243
Miscellaneous Joint Committees and Boards	608(b)
Parish Councils	7,349(c)
Parish Meetings	3,787(c)

(a) In process of formation.

(b) Includes the Metropolitan Water Board, 48 other Water Boards and Committees, 26 Sewerage Boards, numerous Joint Burial Committees, etc.

(c) A considerable number of these authorities (parish meetings in particular) normally have no accounts.

B

Staff

(1) The staff complement of the district audit service is 595 and comprises: 1 Chief Inspector, 1 Deputy Chief Inspector, 15 District Auditors, 17 Deputy District Auditors, 62 Senior Assistant District Auditors, 70 Junior Assistant District Auditors, 279 Audit Examiners and 150 Clerical Officers. The Chief Inspector is responsible to the Minister for the efficiency of the staff and co-ordination of the work. He and his Deputy are appointed on the general establishment of the Ministry of Health, the remainder of the staff being appointed under Section 220 of the Act of 1933. The district auditors are completely independent of the Ministry in the formulation of their decisions and reports.

(2) Audit examiners (the training grade) are recruited from the general Civil Service Executive Class Examination. The district audit service is one of the four branches of the Civil Service drawn from that Examination in which the acquisition of prescribed qualifications is required for eligibility for promotion, the other three being the Exchequer and Audit Department, the Estate Duty Office and the Government Actuary's Department. Audit Examiners are required in the first 4-5 years of their service to train for and pass preliminary and final professional examinations held by the Civil Service Commission in accountancy, legal and technical subjects relative to their work. Their studies are directed and supervised by a training staff in the Chief Inspector's Office.

C

The following is a note of the more important general Acts containing provisions in force as to district audit and of Regulations made thereunder:

Statutes

Rating and Valuation Act, 1925, Sec. 54(1) and (2).
Land Drainage Act, 1930, Sec. 49(3) and (4).
Local Government Act, 1933, Sec. 59(1)(d) and proviso (v) thereof, Part X (Sections 219-236, 241 and 243), Sec. 283(4) and Sec. 293 (proviso (ii)).
Public Health Act, 1936, Sec. 3(2).
Education Act, 1944, Sec. 91.
National Health Service Act, 1946, Sec. 55(1).
Police Act, 1948, Sec. 5(5).
Fire Service Act, 1947, Sec. 7(5).
National Assistance Act, 1948, Sec. 59.
River Boards Act, 1948, Sec. 12(3).
Children Act, 1948, Sec. 49.
Coast Protection Act, 1949, Sec. 42.

Regulations

Accounts (Payment into Bank) Order, 1922 (S.R. and O. No. 1404).

Rate Accounts (Rural District Councils) Order, 1926 (S.R. and O. No. 1123).

Rate Accounts (Boroughs and Urban District Councils) Order, 1926 (S.R. and O, No. 1178).

Accounts (Boroughs and Metropolitan Boroughs) Regulations, 1930 (S.R. and O, No. 30).

Audit Regulations, 1934 (S.R. and O, No. 1188).

Audit Stamp Duty Order, 1938 (S.R. and O, No. 793).

Financial Statements (District Audit) Regulations, 1938 (S.R. and O, No. 794).

Appeal Procedure

Rules of the Supreme Court, Order 55B, Rules 59-70.

Australian Commonwealth Government Corporations

By T. H. KEWLEY

THE government corporation has a long history in Australia, where public enterprise has always been an important feature of the economy. Since the 'eighties of last century, especially, the several State Governments, with a view to relieving Ministers from pressures and influences that were difficult to withstand, have made increasing use of the government corporation for managing a wide range of services, including water supply, sewerage, railways, abattoirs, fire protection, main roads, harbours and electricity. The Commonwealth Government, because of its comparatively limited activities during the earlier years of the federation (established on January 1st, 1901), had little recourse to the device of the government corporation. It was natural, however, with the great increase in its activities during more recent years, for the Commonwealth to choose the government corporation as the appropriate instrument for carrying out a number of those activities.

This study does not discuss the diverse corporations that have been created by the State Governments.[1] It deals only with the corporations established by the Commonwealth Government. Moreover, except for the Australian Broadcasting Commission, it is mainly concerned with those Commonwealth corporations that have been established during the post-war years, when a Labour Government has been in office (1941-49). The study begins with a brief account of the development of Commonwealth Government enterprise.

DEVELOPMENT OF COMMONWEALTH GOVERNMENT ENTERPRISE

The only major enterprise of the Commonwealth Government during the early years of federation was the Post Office. In 1910 the Post Office received attention from a Royal Commission, which recommended that it be managed by a semi-independent board of experts. That recommendation (and also the like recommendations of subsequent Commissions) was not implemented, and the Post Office has remained an ordinary government department. The first important corporation was the Commonwealth Bank, which was established in 1911. Some six years later, in 1917, the Commonwealth Railways were placed under the control of a Commissioner, constituted as a "corporation sole."[2]

A venture with a joint authority was made in 1915, when the Commonwealth co-operated with the States of New South Wales, Victoria and South Australia in establishing the River Murray Commission, an authority whose main duty has been to co-ordinate the construction of irrigation works on the Murray undertaken by these three States. A similar venture, but on an international plane, was made in 1919, when the Commonwealth co-operated with the Governments of Britain and New Zealand in creating the British Phosphate Commission to work the phosphate deposits on Nauru Island.

Further developments came in the early 'twenties, when the Commonwealth joined with private enterprise in the establishment of two "mixed," or semi-government, corporations — Commonwealth Oil Refineries, Ltd., in 1920, and Amalgamated Wireless (Australasia), Ltd., in 1924. In both of these companies the Commonwealth holds a majority of shares but appoints only a minority of the directors. The Commonwealth Shipping Board, which operated a shipping line from 1923 to 1928, was the only important corporation proper to be established during the 'twenties.

The other corporation established by the Commonwealth prior to World War II was the Australian Broadcasting Commission, constituted in 1932. The story of its establishment parallels in some ways that of the London Passenger Transport Board. As with the London Passenger Transport Board, the original

Bill to set up the Commission was framed by a Labour Government which was defeated before it had introduced the legislation. Moreover, the form in which the Bill was finally introduced by the succeeding non-Labour government gave the Commission a greater degree of autonomy than had originally been proposed.

During the first ten years of its existence the Australian Broadcasting Commission was subjected to a great deal of criticism. Conflicts occurred between the Commissioners and the general-manager, and charges of insufficient publicity of the Commission's affairs were constantly made. Although several proposals to amend the 1932 legislation were made by successive Postmaster-Generals, no important alterations were made in the Commission's constitution until 1942, when a Parliamentary Joint Committee reported on the organisation of the national broadcasting service. This committee examined the general question of the status of the government corporation, and discussed, in particular, what degree of autonomy the Australian Broadcasting Commission should be allowed in staffing, finance and general policy. The Committee's report represents an important landmark in the development of Commonwealth corporations. Its major recommendations were embodied in the Australian Broadcasting Act of 1942, which reconstituted the Commission; and that legislation, in turn, furnished a model for the legislation establishing the National Airlines Commission (1945) and the Overseas Telecommunications Commission (1946).

It appeared from this legislation that the Commonwealth corporation was coming to assume a fairly consistent pattern. But new developments came in 1948. The Broadcasting Act of that year (which established a Broadcasting Control Board to regulate, amongst other things, the activities of commercial broadcasting stations), greatly decreased the independence of the Australian Broadcasting Commission in a number of respects. That legislation represents another landmark in the development of Commonwealth corporations. It disregarded many of the principles enunciated by the committee of 1942, deprived the Commission of any semblance of financial independence, and enlarged the membership of the Commission to include two government officials. Subsequent legislation establishing the Australian Shipping Board, the Australian Whaling Commission, and the Snowy Mountains Hydro - Electric Power Authority, has also provided for a greater measure of Ministerial control than was provided for in the legislation enacted prior to 1948.

There remain to be noticed two corporations that have been established by the Commonwealth Government in co-operation with a State Government. These are the Aluminium Production Commission, created in 1944 by the Commonwealth and Tasmania, to develop the aluminium industry in that State; and the Joint Coal Board, established in 1946 by the Commonwealth and New South Wales to regulate the coal industry in New South Wales (in which State about 80 per cent of Australia's coal is produced). The establishment of a joint authority to regulate the coal industry arose from an attempt to overcome certain constitutional limitations upon the power of the Commonwealth Parliament. Political considerations, rather than constitutional limitations, accounted for the joint character of the aluminium authority.

The Aluminium Production Commission is composed of representatives of the partner governments. In this respect it differs from the Joint Coal Board, the members of which are appointed jointly by the two governments and are not regarded as representatives of either. The Joint Coal Board may, however, be given directions on policy by the Prime Minister of the Commonwealth, acting in conjunction with the Premier of New South Wales. Since there must be agreement between the two governments concerned before any such directions are given, it would appear (ignoring for the moment the question of financial control), that the constitution of the Joint Coal Board allows it greater autonomy than that enjoyed by any other corporation, either joint or wholly Commonwealth. This autonomy is increased by an agreement between the two Governments concerned

that neither will amend or repeal the legislation under which the Board is constituted without the prior concurrence of the other.[3]

In addition to establishing a substantial number of government corporations during recent years, the Commonwealth Labour government has joined with private enterprise in forming Commonwealth Engineering Company, Ltd., a mixed undertaking similar to Commonwealth Oil Refineries, Ltd., and Amalgamated Wireless (Australasia), Ltd. Commonwealth Engineering Company, Ltd., differs, however, from these other two mixed undertakings in that it has not been constituted by statute, and there has been no legislation authorising the purchase of the shares, a majority of which the Commonwealth now holds.

The Commonwealth Government has also co-operated with the British and New Zealand governments in forming British Commonwealth Pacific Airways, Ltd., and has also acquired shares in Tasman Empire Airways, Ltd. (in which the British and New Zealand governments also hold shares). These undertakings, like Commonwealth Engineering, Ltd., are all organised on company lines. So is Qantas Empire Airways, Ltd., which the Commonwealth bought out in 1948. These companies represent the only deviations from the Commonwealth Labour Government's policy of placing government enterprises under the management of corporations.

THE POST-WAR CORPORATIONS

Although the government corporations established, or reconstituted, during the post-war years have already been noticed, it may be convenient to have them listed here before an examination is made of their more general characteristics.

Australian Broadcasting Commission (established 1932, reconstituted 1942 and 1948).
Australian National Airlines Commission (1945).
Overseas Telecommunications Commission (1946).
Australian Broadcasting Control Board (1948).
Australian Shipping Board (1949).
Australian Whaling Commission (1949).
Snowy Mountains Hydro-Electric Power Authority (1949).
Australian Aluminium Production Commission (1944).
Joint Coal Board (1946).

The first point to be noticed is that not all of these corporations are conducting an enterprise. One of them, the Broadcasting Control Board, is simply a regulatory agency. It has been included in this study partly because broadcasting is a service in which operating and regulatory functions have been separated, and placed in the hands of two different, and specially constituted, authorities. The Shipping Board combines both regulatory and operative functions. That, of course, allows it to control its competitors.[4] The Joint Coal Board is mainly a regulatory agency, but it has been charged with a number of other duties. For example, it can acquire and operate coal mines, and has, in fact, been operating several for some time.

A second point to be noticed is that the Overseas Telecommunications Commission (which compulsorily acquired the overseas telecommunications assets of Amalgamated Wireless (Australia) Ltd., in accordance with an international agreement) is the only Commonwealth corporation that operates a completely nationalised undertaking. The socialisation of industry has for long been one of the planks in the Labour Party platform, but virtually the only industries with respect to which the Constitution empowers the Commonwealth Parliament "to make laws" are banking and insurance. Moreover, as the decision in the recent *Banking* case indicates, the power of the Commonwealth Parliament even in relation to banking is far from being unlimited. The Commonwealth Parliament clearly has no power to embark upon a nationalisation programme comparable to that of the British Government.

The Commonwealth Parliament could apparently nationalise broadcasting, but it has not so far made any attempt to do that. The Australian Broadcasting Commission has not, therefore, been granted a monopoly in broadcasting, as

has the British Broadcasting Corporation, but competes with commercial broadcasting stations. The Australian Airlines Commission is in much the same position as the Broadcasting Commission. Except for Queensland, where the Commonwealth has an agreement with that State enabling it to operate intra-state air services, the Airlines Commission is restricted to operating inter-state (and extra-Australian) air services. And even here it has not a monopoly, but competes with private airline companies. The Act creating the Airlines Commission contained provisions designed to prevent competition with Government airlines, but the High Court declared those provisions invalid.

Two of the Commonwealth corporations—the Aluminium Production Commission and the Whaling Commission—may be said to possess a monopoly in practice, though not in law. Both are endeavouring to develop industries in which private enterprise has shown little or no interest. The Snowy Mountains Hydro-Electric Power Authority is undertaking a national works project, the capital cost of which is estimated at £200,000,000.

COMPOSITION OF THE BOARDS

Qualifications

Despite the great diversity of function of the several corporations, their constitutions contain many like features. A characteristic of them all is that they make no provision for the representation of sectional interests on the controlling boards. Until recent years the official platform of the Labour Party had demanded that any government corporation should include a representative of the employees in the industry or undertaking concerned. The legislation to establish corporations introduced since the Labour Party assumed office in the Commonwealth has, nevertheless, made no provision for trade union or employee representation.[6] With the exception of the joint authorities, already noticed, the legislation merely provides that members shall be appointed by the Governor-General. In practice, that means appointments are made by the Cabinet.

The Broadcasting legislation requires that one member of the Broadcasting Commission shall be a woman. The qualifications for appointees to the controlling boards are not otherwise specified. There is not even the vague requirement, as in the Railways legislation, that the appointee be "a fit and proper person"! There are, however, certain statutory disqualifications for continuance in office. The provisions differ as between the various Acts, but those relating to the Broadcasting Commission are typical. They state that a member shall be deemed to have vacated office if he becomes bankrupt, or of unsound mind; becomes interested (except as a member of an incorporated company consisting of more than 25 persons) in any contract or agreement entered into by the Commission, or participates in profit arising from any such contract or agreement; or is absent without leave from all Commission meetings held during two consecutive months. The Acts also usually empower the Governor-General to terminate the appointment of a member for inability, inefficiency or misbehaviour.

The absence of specified qualifications for members of the Boards leaves the way open for party political appointments. That some such appointments have been made to the Broadcasting Commission (and by both political parties) is clear. One or two appointments to the post-war corporations have also been claimed to have been party political. But whether it be sheer coincidence or not, the persons concerned have been of considerable business and administrative ability. Mr. Chifley, when Prime Minister, paid close regard to the qualifications of persons appointed to the boards of corporations, if only for self-protection.

A significant development is the growing practice of appointing as part-time members public servants who, in addition, retain their official positions. The broadcasting legislation of 1948, which increased the membership of the Broadcasting Commission from five to seven in order to include an officer of the Treasury, and an officer of the Postmaster-General's Department, is singular in specifically providing for such appoint-

ments. In practice, however, public servants are part-time members of the boards of most of the other corporations. The Airlines Commission includes three public servants, appointed as representatives of the Department of Civil Aviation, the Treasury and the Postmaster-General's Department respectively. The Telecommunications Commission likewise includes three public servants—the Director-General, and the Assistant Director-General of the Postmaster-General's Department; and an Assistant Secretary of the Treasury. Public servants have also been appointed to the Whaling Commission and the Shipping Board. The significance of this is that it brings the corporations into close contact with ordinary government departments, provides the Treasury with a means of watching over their finances, and may seriously limit such statutory autonomy as the corporations might possess.

Number of Members

The size of the boards varies among the several corporations, but most boards have a membership, including the Chairman and Deputy Chairman, of either three or five. An interesting exception is the Snowy Mountains Authority, which is constituted as a corporation sole. The Snowy Mountains Commissioner is assisted by two Associate Commissioners who, like himself, are full-time.

The statutes do not specify whether the appointments are to be full-time or part-time. Where the amount of salary or other remuneration is stated (for example, £400 per annum for ordinary members of the Airlines Commission), the nature of the appointment is, of course, at once clear. But most frequently the salary or other remuneration is to be "as the Governor-General determines." Except for the Aluminium Production Commission, where all members, including the Chairman, are part-time, the Chairman is, in practice, full-time. So also are the other members of the Joint Coal Board and the Broadcasting Control Board. The members of the remaining boards, many of whom are public servants, are part-time.

Tenure

Unlike the position in Britain, where the statutes often specify only the maximum and minimum number of members to be appointed to the board, the Australian statutes provide for the appointment of a definite number of members. The Australian statutes usually also state specifically the term for which the appointment is made. The Commonwealth Parliament Joint Committee on Wireless Broadcasting in 1942 criticised the early Commonwealth practice (as seen in the Shipping legislation of 1923 and the Broadcasting legislation of 1932) of specifying only the maximum period for which members could be appointed. This practice, the Committee pointed out, could permit of very short appointments, with the consequent curtailment of the corporation's ability to maintain continuity of policy, or long-range planning. Such a situation arose during the first ten years of the Broadcasting Commission's existence, when members were sometimes re-appointed for terms as short as two months.

The Committee's recommendations that the legislation should provide for definite terms, and also for the staggering of appointments, were followed in the reconstitution of the Australian Broadcasting Commission in 1942. Similar provisions, too, were embodied in the legislation establishing the Airlines and Telecommunications Commissions. In the constitution of the Joint Coal Board, however, an indefinite term, "not exceeding seven years," was reverted to, and no provisions were made for the staggering of appointments. The same is true also of the Broadcasting Control Board. The Broadcasting legislation of 1948, and also the legislation establishing the Shipping Board in 1949, provides that members who are public servants are to be exempted from the normal provisions and are to hold office during the pleasure of the Governor-General. Similarly the two members of the Whaling Commission, other than the Chairman, are to hold office during the pleasure of the Governor-General.

MINISTERIAL CONTROL

The legislation constituting the post-war corporations usually places definite

limitations upon what the corporations may, or may not, do without Ministerial approval. The Overseas Telecommunications Act, for example, provides that the Commission may not, without the approval of the appropriate Minister, purchase land costing more than £5,000, enter into a lease of land for a period exceeding five years, dispose of any property, right or privilege worth more than £5,000, or enter into a contract for the supply from overseas of material of greater value than £5,000. Similar provisions apply to the Broadcasting Commission, the Shipping Board, and the Airlines Commission. A further provision in the Airlines legislation empowers the Minister to direct the Commission to establish, alter, or continue to maintain, any specified airline service if he considers it is in the interest of the development of Australia so to do. The Shipping Board may be similarly instructed to operate any shipping service which the Minister considers desirable in the public interest. It should be noticed, however, that the relevant Acts provide that if, in any year, any such airline or shipping service operated at the direction of the Minister shows a loss, and the whole of the corporation's operations also show a loss, then the corporation is entitled to be reimbursed by the Commonwealth to the extent of the lesser of the two losses.

The trend of recent legislation to grant Ministers wider powers over corporations is also apparent in the constitutions of the two joint authorities. The powers of the Aluminium Production Commission are subject to any directions given on behalf of the Commonwealth and Tasmania by the Commonwealth Minister administering the Act. The Joint Coal Board may also be given directions on matters of policy by the Prime Minister in agreement with the Premier of New South Wales. It has already been stressed, however, that, because two governments would be involved in issuing such directions, these provisions may allow the joint corporations greater freedom than if there were specific limitations placed on their powers.

Certain of the powers conferred upon the Minister in relation to the Broadcasting Commission require special notice. The Minister may require the Commission to broadcast any matter the broadcasting of which he designates, by notice in writing, as being in the public interest. He may also direct the Commission, by notice in writing, to refrain from broadcasting any item. These provisions do not, however, affect the Commission's power to determine to what extent, and in what manner, political speeches, or any matter relating to a political subject, may be broadcast. The question of how to minimise attempts at party political control over the Broadcasting Commission was discussed at some length by the Parliamentary Joint Committee on Wireless Broadcasting of 1942. It recommended that the Broadcasting Commission should be required in its annual report to Parliament to mention any instances where power had been exercised under the above provisions, and also to mention any instructions which it had received that were not in accordance with the Act. That recommendation was embodied in the amending legislation of 1942. No such provision applies to any of the other corporations.

FINANCE

Of the corporations with which this study deals, the Broadcasting Commission has been the only one to enjoy financial independence. The legislation establishing the Commisison in 1932 provided that it should receive 12s. out of each broadcasting listener's licence fee. That source of revenue made the Commission self-supporting in its early years. The ease with which such independence could be lost, however, was demonstrated when, in 1940, amending legislation reduced the Commission's share of each licence fee to 10s. Although the amount was increased to 11s. in 1942, the Commission found itself faced with rapidly rising costs and unable to live within its income. Its repeated requests for further increases were refused, and it became more and more dependent upon additional Parliamentary appropriations to meet its deficits. Finally, in 1948, all the original financial provisions were repealed, and the Commission is now dependent entirely upon appropriations, and may spend money only in accordance

with annual estimates submitted to the Minister and approved by the Treasurer.

Some of the financial provisions of the relevant statutes have already been noticed. The statutes usually include a provision limiting the corporation to borrowing on overdraft from the Commonwealth Bank. They usually also empower the Treasurer to make advances to the corporations from moneys appropriated by Parliament for the purpose. Opportunities for Ministerial control which arise from this latter provision derive not so much from the fact that the appropriations are made annually, as from the further stipulation that the Treasurer may make advances from appropriations on such terms and conditions as he thinks fit.

The statutes contain a number of detailed financial provisions, only some of which need be noticed. They usually, for example, specify what may be done with any profits, and also the conditions under which money may be invested. Most of the corporations are empowered, subject to the approval of the Treasurer, to set aside such sums as they think proper for reserves, depreciation of assets and insurance. Some corporations are required to maintain certain funds. The Joint Coal Board, for example, is required to establish Workers' Compensation, Welfare and Coal Industry, Funds. Some of the corporations are required to keep their accounts in a form approved by the Treasurer. Others have the form of their accounts prescribed by regulation. The statutes require that the accounts of the corporations shall be inspected and audited at least once yearly by the Auditor-General of the Commonwealth.

STAFFS

Whilst the pre-war practice of excluding the personnel of corporations from the provisions of the Public Service Act has usually been followed, there has, nevertheless, been an increasing tendency to limit the independence of the corporations and to bring their staffing provisions more and more into line with those applying to the regular public service. This has been secured by three different methods. One method has been that adopted with the Australian Broadcasting Commission (since 1942), the Australian Airlines Commission, and the Overseas Telecommunications Commission. These corporations have been allowed the nominal right to determine the terms and conditions of employment of personnel, but have been required by statute to adopt methods of selection, appointment and promotion similar to those of the Public Service Board (the agency charged with the recruitment and management of the regular public service). Another method, adopted with some of the most recently-established of the corporations (e.g., the Shipping Board and the Whaling Commission), has been to grant them power to determine the terms and conditions of employment of their staffs, but (and this stipulation is important) subject to the approval of the Public Service Board. A third method has been that adopted with the Broadcasting Control Board. Its staff have been made part of the regular public service.

Several other factors have made for greater similarity between the conditions of employment of the personnel of the corporations and the regular public service. For example the Commonwealth superannuation scheme has been extended to cover almost all employees of corporations. Nor should the influence of the Treasury be overlooked. The appointment of Treasury representatives (who, no doubt, consult regularly with the Public Service Board) to the boards of many of the authorities has afforded opportunities for some control over personnel matters. This control is, of course, in addition to any indirect control that the Treasury might be able to exercise from its "power of the purse." That the Commonwealth Labour Government has consciously pursued a policy aimed at bringing the staffs of all government authorities under similar conditions appears clear from a statement (*Commonwealth Debates*, March 16th, 1949, p. 1557), by the then Prime Minister (and Treasurer), Mr. Chifley:

"As Treasurer, I was not happy that any large organisation engaged in work for the Commonwealth should remain outside the authority of the Public Service Board . . . I was concerned that

there should be a uniform standard of conditions and remuneration throughout all government departments and organisations working for the Commonwealth."

PUBLIC ACCOUNTABILITY

It was noticed earlier that the report of the Parliamentary Joint Committee on Wireless Broadcasting of 1942 represents a landmark in the development of thought (and also of policy) in Australia about the status of the government corporation. That Committee had little to say about the principles that should relate to Parliamentary questions about the affairs of corporations. Neither has the Speaker given any specific ruling upon this subject, as has happened in Britain. The Committee did pay considerable attention, however, to the problem of the relation of the government corporation to Parliament. It was especially impressed by a proposal, made to it in evidence by Professor F. A. Bland, for the creation of a Parliamentary Standing Committee to act as a liaison between Parliament and the Australian Broadcasting Commission. Although the Joint Committee did not adopt Professor Bland's proposals in full,[8] its report (at p. 13) recommended the establishment of a Parliamentary Standing Committee on Broadcasting "in order to reconcile the Australian Broadcasting Commission's independence with the political conception that all actions of Government or quasi-Government authorities should be subject, in the final analysis, to Parliamentary control." The report proposed that this Standing Committee be empowered to consider matters referred to it by either Houses of Parliament, or by the Minister. The Minister was to be obliged to refer to the Committee any matter which the Federation of Commercial Broadcasting Stations, or the Australian Broadcasting Commission, requested him to so refer.

These recommendations were embodied in the 1942 Broadcasting legislation, and a Joint Standing Committee of nine members, six appointed by the House of Representatives and three by the Senate, was subsequently established. All parties have been represented on the Standing Committee, the government party having a majority, and the Committee has submitted a number of reports. The Committee's activities have, however, been subjected to considerable criticism, and especially on the ground that it has not fulfilled Professor Bland's hope that it would act as a non-partisan body. Many of the Committee's reports have been unanimous, but when any contentious issue has been considered the Committee has divided on party lines, the Government members submitting a majority report supporting government policy and the Opposition members a dissenting minority report. In this way the Committee has merely endorsed government policy. The Opposition parties have frequently declared it to be a mere pawn of party politics, and have several times threatened to abstain from participation in its work.

Another ground on which the Standing Committee has been criticised has been its failure to act as a liaison between Parliament and the Broadcasting Commission. Parliament has rarely considered the reports submitted by the Committee, although some reports have been followed by governmental action. That the Committee tended to endorse ministerial control over the Commission, rather than to act as any kind of liaison, was stressed by the Commission in its report for the year ended June, 1944. That report stated that, while the Standing Committee had been originally visualised as a preliminary clearing house for questions of exercise of power by Minister and Commission, it had been generally realised that if the evidence collected and commented upon by the Committee were to have any practical value it should be discussed in Parliament. "Unfortunately," the Report continued, "these anticipations have not been realised. The Standing Committee have been assiduous in their inquiries . . . but no subject in any of their five Reports has been discussed by either House." It is clear that the Standing Committee on broadcasting, while representing an interesting experiment, has done little, if anything, to improve the relation between the Broadcasting Commission and Parliament.

No other corporation has had a Parliamentary Standing Committee established

in relation to it, perhaps because it has been recognised that Parliament is not able to exercise effective control or supervision over the activities of government corporations. There have, however, as this study has shown, been attempts in other ways to grapple with the problem of the public control of the government corporation. These attempts are seen in the policy of increased Ministerial control, of appointing public servants to the boards, and of restricting independence in personnel matters. How successful these are likely to be, it is too soon to judge.

[1] For some discussion of State Government enterprises see specially F. A. Bland, GOVERNMENT IN AUSTRALIA (1944); and his article "Some Implications of the Statutory Corporation," in PUBLIC ADMINISTRATION, Vol. xv, p. 393. See also F. W. Eggleston, STATE SOCIALISM IN VICTORIA (1932).

[2] The policy of Government ownership and control of railways was adopted in Australia almost from the outset. The Commonwealth Government, however, controls only certain trunk routes. Its revenue from railways during the year 1947-48 was £1,237,000. That of the State Governments during the same period was more than £75,000,000.

[3] For a fuller discussion of the Joint Coal Board, see article by T. H. Kewley, and Joan Rydon, in PUBLIC ADMINISTRATION (Sydney), Vol. viii, June-September, 1949.

[4] There has been some speculation about the possibility of the Menzies Government (a Liberal-Country Party Coalition Government which succeeded the Chifley Labour Government in December, 1949), selling to private enterprise the shipping line at present operated by the Shipping Board. At the time of writing this study (May, 1950), there have been no legislative changes in either function, or status, of any of the corporations established by the Chifley Government.

[5] This was not true of two corporations established by the Commonwealth under National Security Regulations during the war. The war-time Coal Commission was for a few months enlarged to include representatives of employees and employers. This was done in response to demands by the Miners' Federation. The principle was not continued, however, in the Coal Production (War-Time) Act of 1944, or the legislation establishing the Joint Coal Board in 1946. Similarly, the War-time Shipping Board included a representative of the employees, but this was not continued in the peace-time legislation, namely, the Shipping Act of 1949. Another exception was the Stevedoring Industry Commission which included representatives of waterside workers. This Commission has been recently abolished, however, and replaced by a non-representative board.

[6] For an account of these proposals, see article by F. A. Bland, "Broadcasting in Australia," in PUBLIC ADMINISTRATION (Sydney), Vol. iii, No. 4, pp. 181 et seq.

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Nationalisation in Practice, the Civil Aviation Experiment*

Reviewed by R. H. THORNTON

THE accent is very much on the subtitle. The author has himself been employed in the civil aviation industry and, since leaving it, has been a journalist specialising in the subject. The book displays both the merits and the defects which one would expect to derive from those facts. It describes in great detail the curiously exasperating history of our national effort in the field of air transport, but the author has been so intimately interested in the events described that he is hardly able to see the wood for the trees; such wood, that is to say, as there ever was to see. As a result two questions of the greatest interest in the early history of our nationalised air transport industry, since its birth in the announcement of Sir Kingsley Wood on November 11th, 1938, remain unanswered.

First, why was the initial decision ever taken to amalgamate Imperial Airways and British Airways? On Page 36 the author blandly dismisses this as "anybody's guess." Why should it be? Lord Reith, who was a vitally interested party, is alive and can be interviewed. It is surprising that anyone setting out to write an authoritative history of this subject should not have felt a greater obligation to posterity. Second, who was responsible for the extravagant administrative pattern of B.O.A.C., which was firmly established and being blithely implemented by many of the author's old friends in the business, as early as January, 1946? That date happens to be the earliest from which I can speak with authority. But it is important because it shows that the extravagance did not originate in the post-war atmosphere of "Socialism in our time." It has no connection with any similar developments in, say, the Coal or Rail Transport industries. And, since it is hard to see how it can have developed during the war, when the Corporation was permitted virtually no self-contained existence at all, one is driven to the conclusion that it started in the formative year of 1939, with 1940 perhaps thrown in. The author, on the other hand (p. 138), appears to attribute it to Lord Knollys and Brigadier-General Critchley during the period following their appointment in 1943. But he does not demonstrate. It is unfortunate that anyone so well placed as he is should not have done so and given us the benefit of his findings for the undoubted historical value which they would have had.

There is one other astonishing lapse. In the air age the North American Continent is clearly the greatest traffic-generating area in the world. That being so, it is remarkable to find no discussion of the British failure to jump into the North Atlantic trade with both feet after the war. Their established position as sea-carriers and their prestige as the second air-power in the world both entitled them to stake a substantial claim. There were no British aircraft capable of the Atlantic crossing, but "Skymasters" were to be had for a few hundred thousand dollars apiece and the British shipping industry in a somewhat analogous position was busily, and rightly, buying secondhand American ships at that time. Instead we rationed ourselves initially to five aeroplanes of trans-Atlantic type and thus failed to establish peacefully a position on that route which we may now never be able to capture by aggressive means. This was a deliberate decision of policy taken under the Coalition Government and a thoroughly bad one. Our leading American competitors could not believe their luck. They thought, and said so, that we were plumb crazy. We were. This was quite the most far-reaching and damaging decision ever taken in British aviation policy since Mr. Churchill's premature slogan, "Aviation must fly by itself." Mr. Longhurst apparently does not think it worth mentioning.

Apart from these shortcomings, the first half of the book gives a full historical

*By JOHN LONGHURST. Temple Press, Ltd., London, 1950. pp. 227. 12s. 6d.

survey of the origin of our three Airways Corporations, now reduced to two. It reveals, as starkly as one could wish, the constant changes in their principal executives, which combined with three successive Ministers of Civil Aviation would have produced chaos in any industry whose members were not held together by an intense common enthusiasm for a new vocation of absorbing interest. One can only hope, one dare not do more, that that chapter is now closed. We shall make no solid progress until it is.

But readers of "Public Administration" will not be particularly interested in aviation as such, still less in its more esoteric problems. They will turn to the last four chapters, in which the general problems confronting State-owned enterprises are discussed and an attempt made to assess the lessons to be learnt from the experiences of the airline Corporations. In these Mr. Longhurst discovers in a vigorous, personal fashion, the problems and dilemmas which are all too familiar to students of the subject of State-owned enterprise. But he discovers also that the airline enterprises are "sui generis," because they are specifically subsidised from the Exchequer. By inference, therefore, their experience may not be directly applicable to the case of unsubsidised enterprises and the title of his book is thus something of a misnomer.

As to the major dilemma, namely "Post Office" administration versus the "independent" Public Board, he is not very helpful. He feels that the proper choice probably varies in different industries and he suggests (Heaven help us) remitting the problem to a Royal Commission. However, as to the air transport industry itself, he is quite clear as to what he wants, namely a number of self-contained airlines, corresponding to the main trunk-routes of the world. Let us, he says, have in the air a State-owned replica of what we have at sea, a P. and O., a Union Castle, a Royal Mail, a Cunard Line, and so on. To placate the economists, who persist in thinking in defiance of all experience that there are vast, automatic (repeat automatic) economies inherent in size, he is in favour of a spontaneous, but not an imposed, pooling of common services and activities. Fifteen years ago the idea would have been serviceable. Indeed, how happy should we have been, these last four years, if we had had half a dozen seasoned general managers of sizeable undertakings from whom to select for the larger tasks which now confront us. And even to-day the most obstinate of centralisers, unless he be more than usually obtuse, will pause before he dismisses as valueless the astonishing virility and flexibility of the British shipping industry, which it owes to the small units in which it operates, and to the variety of expertise which they evoke.

But though his proposal is no longer practicable, his argument for it rests soundly on the basic principle that large-scale enterprise, to succeed, must be organic. It cannot be taken off a drawing-board. Either it must have evolved from small beginnings or it must be the spontaneous and personal achievement of a man or a small team of men of quite outstanding creative ability. All this is good sense.

The author faces also the second major problem. Granted the "independent" type of Public Board, has it any hope at all of real independence? How can it evade a jealous and inquisitive Parliament? How can it resist the intrusions of a Minister who is himself constitutionally subject to Parliamentary scrutiny? Can anyone firmly define "day-to-day management"? If a Minister feels that his undertaking is being badly run, is he even so to be inhibited from all personal intervention? But although he poses the problem, the author is curiously inconsistent in his suggested solution. His own instinctive answer seems to me the right one. It is simply this, that if you wish to own an industry without running it, and that is the position in which Parliament finds itself, you must take infinite pains to put the right people in charge. There is no other way and in this connection it is worth recalling a simple, but very illuminating, remark by Sir Geoffrey Heyworth. This was to the effect that the main duty of the whole-time Board of Unilever, as a holding Company, was to know 600 men with sufficient personal intimacy to en-

sure that the right 200 got to the top. All the controls, audits and inspectorates in the world will not turn a bad manager into a good one.

That having been said, it is difficult to follow Mr. Longhurst's additional proposals for no less than two separate Advisory Councils, one to keep the aviation "experts" in the House of Commons happy with a monthly tea-party, the other to tell the Minister what he ought to think on all major issues of ministerial policy and to be a Selection Board for all external appointments to the airline undertakings. The first is a harmless proposal, subject to one proviso. That is that every Member of Parliament, before entering the tea-room, will sign an affidavit that he enters as a genunie shareholder's trustee and not as a politician, still less as a partisan.

The second on Mr. Longhurst's own showing is clearly either impracticable or redundant. He supports it on the grounds that it would ensure "continuity of policy." But if that means that the Council would have the power to impose its superior, continuing wisdom upon a transitory Minister, who is after all a politician with a career of his own to consider, then the proposal is clearly impracticable. But if the Council is to be no more than advisory, then let us have none of it. At best it would be redundant; for, if its members are any good at all, then they are precisely the people to be serving (at least in the Morrisonian concept) as lay, part-time members of the Boards of the Corporations themselves, whose selection in future Mr. Longhurst wishes to see improved. At worst, it would mean yet another dozen or so people to be invited to lunches and airport tours; people to whose education, lest they should develop dangerous thoughts, the unfortunate executives of the business would have to devote still more of what should be their executive working hours. They have to do far too much of that already. Drop it, Mr. Longhurst, I beg of you. Stick to the classic principle of "good men in the right places," and all these things, such as "continuity of policy," to say nothing of general public satisfaction, shall be added unto you.

As the reader will have discerned, this is not a profound book. But it is certainly readable. It is written in a lively, vigorous, disarming style and, if only as a personal testament of frustration and dismay by one man keenly interested in British progress in the field of civil aviation, it is worthy of respect. I suspect that, whether he means to or not, the author speaks for many people less articulate than himself.

Reith and the B.B.C.

By R. N. SPANN

THE B.B.C. is a notable institution—an institution in the same sense as the Crown, Parliament, the Church of England, notable in that it has acquired that status within less than twenty-five years. If the Beveridge Committee were to recommend its abolition, or even that it should lose its monopoly, a minor revolution would have occurred. One would steel one's heart and try to bear in mind the ex-B.B.C.'s deficiencies. But how repress the nostalgia with which one contemplates dissolved monasteries, the "ancien régime," the ruined aqueducts of Rome? Would it not have its Burkes, as it now has its Voltaires?

Mr. R. H. Coase's account[1] of its rise and progress is hardly Voltairian in style, but none the less destructive in the way it exposes some little-known facts about the Corporation's monopolistic practices to the cold light of the academic day. He considers that the main responsibility for the B.B.C.'s monopoly lies with the Post Office. Sir Evelyn Murray, the latter's Secretary, evidently played a major role[2] as we can hardly attribute much initiative to the six Postmasters-General who occupied that office between 1922 and 1926. The public corporation idea seems to have been John (now Lord) Reith's; and, if we had not also Mr. Coase's word for it, Lord Reith's autobiography[3] simultaneously appears to convince us that he was very largely responsible for turning the monopoly into an institution, for the progress from contract (the Post Office licence might be regarded as such, in an unlawyerly sense) to status. Later public corporations doubtless owe much to Reith's work. That the line between "general policy" and "day-to-day administration" is drawn where it is, for good or evil, is part of a tradition Reith has had a large hand in creating. He tells us (p. 133) that he was "particularly concerned . . . to make a success of the B.B.C. as a prototype for the public corporation' system of public services management." This is written after the event. But the elevation of an uneasy compromise into an ideal type is peculiarly the work of men like John Reith and Herbert Morrison[4] who think that it is the British birthright to have the best of inconsistent worlds.

Lord Reith's life story usefully complements Mr. Coase's book. It is a convincingly sincere account of the activities of a man of large ambitions who has held many posts of responsibility, but only one (or possibly two, if we count his experience in the Royal Navy) that did not baffle and frustrate an undoubtedly odd personality. Mr. Churchill once told him he had a name for "being difficult to work with"; and Reith himself shows that this is at least part of the truth. He believes in leadership, and can lead—but only in an organisation he has built himself (like the B.B.C.), or which in some other way offers him a haven of personal trust and a sufficient freedom from the daily rubs of conflicting jurisdictions (like the Navy). He was unhappy with the "queer mixture of old and new" at Beardmore's, whence he came to the B.B.C. Twenty years later at the Ministry of Transport, he "could not understand the way work was organised," and having failed to effect a revolution there, put his mind (in the Dunkirk period of 1940) to planning the post-war structure of transport. At the Ministry of Works, he hoped for "definite terms of reference; that one would know where one was," which (in his view) involved taking over functions from "about twenty departments." Such an attitude of itself closes many of the routes to power[5]. Reith was lucky to get there once, on the day in January 1923 when the capitalist bosses of the British Broadcasting Company told their new General Manager that "we're leaving it all to you" (Reith, p. 88). He made a go of it, in years of almost undisputed leadership. Why should he have regrets?

THE POST OFFICE AND THE MONOPOLY

Part I of Mr. Coase's book deals with the origins of the B.B.C.'s monopoly. The vital decisions were taken in a comparatively short period. In 1918 the general view was still that the uses of wireless

would remain limited and largely technical. By 1922 action had to be taken quickly about a large number of applications to broadcast. The Imperial Communications Committee is thought to have recommended (Coase, p. 10) eight or more stations, run by the radio manufacturers. Sir Evelyn Murray explained to the latter that "some co-operative scheme" (Coase, p. 12) was desired by the Post Office; and by August the Post Office had secured agreement among them to form a single company, registered as the British Broadcasting Company on December 15th, 1922, to transmit programmes "to the reasonable satisfaction of the Postmaster-General." It was to be financed mainly by royalties on the sale of sets and certain components, and by 50 per cent of the Post Office revenue from receiving licences. The Post Office left itself free to license further companies, but clearly had no intention of doing so. The broadcasting monopoly had come to stay, and was largely "the result of Post Office policy" (Coase, p. 18).

Motives are not early to disentangle. Partly it was fear of American "chaos" (an Assistant Secretary of the Post Office inspected the American system in the winter of 1921/22). There were patent problems, there was pressure from the Service Departments to restrict wavelengths. Mr. Coase thinks "the main reason" (p. 21) was the desire of the Post Office to avoid the problem of preferential treatment, bound to arise in allocating wavelengths and districts to different companies. "The view that a monopoly in broadcasting was better for the listener was to come later." Fundamentally, the taste for a private monopoly was rooted in the caution of an old-fashioned Government department faced with an awkward new development. This, after all, was the department which was later extensively criticised by Viscount Wolmer and the Bridgeman Committee for its attitude to its trading functions. The Post Office wanted an organisation which could be controlled without fuss or controversy. Let the industry itself "speak with a single voice." The larger radio firms at least were agreeable; so 'on the whole' were the Press, who feared a service financed by advertising.

By the time the Sykes Committee reported in August, 1923, the royalty system had broken down (it could not be enforced on components, and too many people were making their own sets). The Committee recommended that the 10s. receiving licence should become the main source of revenue, but did not pronounce on the virtues and vices of the monopoly (contrary to the later assertion of the 1946 White Paper on Broadcasting Policy). So the position remained until 1926.

THE INFLUENCE OF MR. JOHN REITH

During this period a new influence was making itself felt. In December, 1922, Mr. John Reith was made General Manager of the British Broadcasting Company, at the age of 33. Within a year he was Managing Director. "He was an engineer by training, the son of a clergyman, and a Scot"; and he had very clear ideas about what running a "public utility service" (as broadcasting was described in the Company's Memorandum of Association) meant. Broadcasting must be "a Public Service with definite standards," preserving "a high moral tone," leading and not following public taste. "It is occasionally indicated to us that we are apparently setting out to give the public what we think they need—and not what they want, but few know what they want, and very few what they need."[7] This was an entirely new argument for preserving a broadcasting monopoly, and it was John Reith who more than anyone was responsible for giving it currency. Central control, he argued, was "essential ethically, in order that one general policy may be maintained . . . and definite standards promulgated." His political theory is neatly summarised in a half-truth from his own Life: "Institutions should be regarded not as protection against, but as protection for, the social activity of right-minded men" (p. 144).

At the time of the Sykes Committee (on which he sat at his own request) he had already decided in favour of public ownership. He spent his 1924 summer holiday writing his "apologia for a monopoly" *Broadcast over Britain*, and attracted the attention of the *Times*, thenceforward a valued supporter. The

new Prime Minister, Mr. Baldwin, became an ally—a bond later cemented during the General Strike (after which Reith read a special message composed by the P.M., followed by a choral rendering of *Jerusalem*). In favourable circumstances John Reith sought, and largely obtained, for broadcasting, "its royal prerogative" (Reith, p. 101). A private monopoly was clearly no permanent solution. Sir Evelyn Murray's memorandum to the Crawford Committee (appointed in 1925), which "had not lacked the previous scrutiny of B.B.C. officials[8]," suggested a chartered or statutory corporation with "a large measure of independence," supervised by the Postmaster General, who would not, however, "be expected to accept responsibility." Most of the other evidence (including Reith's own) tended in the same direction. Almost everyone accepted the need for a monopoly; the Crawford Committee dismissed the case for the opposition in a sentence. In March, 1926, it recommended a "public corporation . . . invested with the maximum of freedom which Parliament is prepared to concede." In the event the act was done by Royal Charter; the British Broadcasting Corporation was born, with a Board of Governors and John Reith as its first (Crown-appointed) Director-General.

THE B.B.C.'S "INDEPENDENCE"

Up to this point Mr. Coase and Lord Reith have much the same story to tell. Now they part company. The B.B.C. has fought its battles on many fronts. On one it has had to defend its monopoly against those who have tried to tamper with its dictatorship over the consumer. Mr. Coase's later chapters show us something of this battle, Lord Reith's almost nothing. He feels no need to defend his policies in this field.[9]

But the B.B.C. had also its relations with the State (and the Director-General his relations with the Board) to consider. Mr. Coase is not concerned with this problem. Lord Reith is, to the point of excluding all others. From neither book would one guess that the B.B.C. spent most of its time in trying to entertain the British public. The Index of "Into the Wind" is studded with the names of politicians and B.B.C. Governors, but the B.B.C. staff and the artists they employed hardly appear. Mr. Gorham's recent book, "Sound and Fury," belongs to a different world from either of these two books—the world of pushful conflict and intrigue in which many of the day-to-day programmes of the B.B.C. were, and are, to a considerable extent settled.

John Reith had other battles to fight. Behind the united front they presented to the Crawford Committee lay some important cleavages between him and the Post Office. Up to 1926 the Post Office had virtually banned controversial broadcasting[10] and also "restricted income to £500,000 a year" (p. 103). These were two vital issues.

A few weeks after the Crawford Committee reported, and while a financial wrangle with the Post Office was in progress[11], the General Strike began. Mr. Churchill "demanded that the B.B.C. should immediately be commandeered."

John Reith took successful avoiding action and, at the cost of forbidding the Archbishop of Canterbury the air, managed to keep the Cabinet on his side. But the strike had its effect on the new Corporation's licence for in this the Post Office claimed a right to "require the Corporation to refrain from sending any broadcast matter (either particular or general)", which has never been relinquished. Nowadays the only general prohibition is on the B.B.C.'s expressing its own opinions on matters of public policy. But at first, matters of political, industrial or religious controversy were wholly forbidden. "The ban was not lifted till March, 1928. Churchill was in favour of its removal." (Reith, p. 128.) By the 1929 General Election Reith was able to dictate to the political parties on their allocation of time for broadcasts —a notable reversal of roles. But the status thus won left the Corporation saddled with a vested interest in right-mindedness and knife-edged impartiality which has proved somewhat burdensome to it. One of the worst features of the B.B.C. monopoly is the pathological sense of responsibility it has bred in its executives; as though the fabric of civili-

sation would rend were the wrong man to get two minutes at the microphone. It is clear from Reith's book that the B.B.C. had another difficult situation to contend with in the later 1930s[11], which reinforced caution.

The B.B.C. was also fighting on the financial front. The first Post Office licence left the B.B.C. with only about two-thirds of licence revenue, half after the National Government's economy cuts; by which time John Reith had not merely Sir Evelyn Murray and the Treasury to contend with, but also an unsympathetic Postmaster - General, Kingsley Wood. However, in 1934, the reign of Sir Evelyn Murray came to an end. Relations with Sir Donald Banks, the new Director-General of the Post Office (now itself with more financial freedom) were good. The B.B.C. cut was partly restored in 1934, and from then on it received a steadily increasing proportion of licence revenue.

" Warren Fisher suggested that he, Banks, Barlow of the Treasury, and I should discuss " the new Charter and Licence (due in 1936): " another public enquiry would not be necessary " (Reith, p. 182). But Reith by this time wanted control of the B.B.C., " except on purely technical matters," to " pass from the Post Office to a senior minister such as the Lord President." (Reith, p. 187.) Kingsley Wood disapproved and insisted on a Committee of Enquiry. However soon after the Ullswater Committee[12] met, Kingsley Wood went to the Ministry of Health, reappearing in 1936 as Chairman of the Cabinet Committee which considered the Ullswater Report. Ramsay Macdonald told Reith there has been " something of a flare up in the Cabinet " (Reith, p. 251) about broadcasts on Fascism and Communism, in which Kingsley Wood and Neville Chamberlain had attacked the B.B.C. The Cabinet rejected the Ullswater proposal that a Cabinet Minister should supervise " the cultural side " as " inconsistent with the preservation of independent management by the Corporation." Reith had thought of it as increasing his freedom of action. For this and other reasons Reith did not like the new draft Charter and Licence; but the Director-General of the Post Office agreed to some amendments, including a reduction in the Post Office share of licence revenue.

THE DIRECTOR-GENERAL AND THE GOVERNORS

The directors of the old Company had given John Reith " so much of a free hand " (Reith, p. 104). The 1926 Charter replaced them by five Governors (two more were added in 1937) with Lord Clarendon, an ex-junior Conservative Minister as Chairman. The other members were the Company's chairman (an ex-Liberal P.M.G.), a Bank of England man (suggested by the Treasury), the Headmaster of Winchester (the P.M.G. and A.P.M.G. were Wykehamists) and Mrs. Snowden, " a representative of Labour and a woman."[13] " There had been no attempt to define what the Board was meant to do . . . Mrs. Snowden expected to have a room of her own and . . . thought the Board should meet every day." (Reith, p. 117.) But in 1930 Clarendon went to South Africa, and J. H. Whitley (the ex-Speaker), who succeeded him, was entirely to the Director-General's taste. Reith was asked to draft a document defining the Board's functions, which was read to later Governors on appointment. They were " primarily . . . trustees to safeguard the broadcasting service in the national interest. Their functions are not executive . . . general and not particular." Lord Bridgeman, ex-critic of the Post Office and Baldwin's friend, and Mr. R. C. Norman, a suggestion of Reith himself, joined the Board. Mrs. Hamilton replaced Lady Snowden. The Governors raised the Director-General's salary from £5,000 to £7,500, and again to £10,000 in 1935[15]. Bridgeman and Norman in turn succeeded Whitley. Lady Bridgeman became a Governor on the death of her husband. It was on the whole a tractable Board that John Reith had to deal with in his later years at the B.B.C.[16]

INTERNAL ORGANISATION

It is surprising how little Lord Reith tells us of the internal organisation of the B.B.C. We gather that at headquarters there was a Deputy Director-General and four functional Controllers (Programmes, Engineering, Public Relations and Ad-

ministration), who attended the weekly meetings of an executive control board,[17] of which the Chairman was also a regular member. Below them were the specialised "creative" departmental directors (music, drama, etc.), with corresponding "executives," under the administrative Controller, "keeping their desks clear for them." But we learn nothing of how this particular form of organisation grew up, nor of how the system of divided control worked. This is a pity, as it is known that a later Director-General regarded it as conflicting with unity of command, and abolished the Administration Division in 1942.[18] After that, the B.B.C. seems to have moved in the direction of increasing accessibility to the Director-General, and organising round "programmes" rather than "functions"[19] until 1947, when there was apparently a sharp reaction. To what extent has the B.B.C., which once more has a small functional Board of Management[20], been impaled successively on alternate horns of the dilemma of large-scale organisation? A fascinating case-history could probably be written. Let us hope that the Beveridge Committee will tell us more than Lord Reith does.

Nor is he more enlightening about the B.B.C. regions. He tells us that the regional directors were "highly authoritative." Though "functionally they normally reported to the head office divisional controller," they were generally responsible to the Director-General, and attended meetings of the control board once a quarter. They ran their own programmes (alongside the National programme) subject to the compulsory exchange of certain items. This system "disappeared in the war" (Reith, p. 299) but has been revived in a modified form since[21]. We shall never be clear on this issue until we know what the regions have to spend—and this remains a dark secret. Again we may hope that the Beveridge Committee will remedy the deficiencies in this respect of B.B.C. Annual Reports.

Lord Reith devotes a paragraph or two to staff relationships. He vigorously defends "paternalism" (p. 272) but makes no reference to the argument of a later Director-General (Sir Frederick Ogilvie) that the B.B.C. monopoly offends the principle of freedom of employment, or to the view that it places "an enormous patronage" in the hands of a single authority.[22]

Monopolistic Practices

Mr. Coase, too, neglects this aspect of the B.B.C. monopoly. But he deals at length (in Part II of his book) with its attitude to two outside interests—the privately-operated relay exchanges and foreign stations broadcasting to British listeners. Attempts were made before the war to bring both to heel. In 1930 the Post Office used its licensing powers to stop the exchanges originating programmes, and claimed, but did not exercise, a right of compulsory purchase. An effort by local authorities to enter the field was defeated. In 1936 the Ullswater Report recommended that the exchanges should be nationalised, its only argument of substance being that their selection of items for relay might "damage the Corporation's programme policy." It was John Reith's cultural monopoly they endangered, by picking and choosing, or deserting the B.B.C. for Radio Normandy and Luxemburg (as the individual listener could already, more was the pity, but there were ways of dealing with that too). The Government, to Reith's annoyance, rejected the recommendation, but various new obligations were imposed on the exchanges, including that to offer at least one B.B.C. programme. There the position has remained, for the Beveridge Committee to deal with. Mr. Coase thinks the development of relay exchanges has been considerably hampered by Post Office policy, and that the technical possibilities of wire broadcasting (as an escape from the wavelength shortage, itself used as an argument for the B.B.C. monopoly) have remained unappreciated. New technical advances have now also come into the picture to suggest some reconsideration of the position with regard to purely local broadcasting.[23]

A major count against the pre-war exchanges was that they sometimes relayed foreign stations in preference to the B.B.C. By 1938 it was estimated that £1.7 million was being spent by British

firms on this new outlet for advertising. As many people listened to these programmes on a Sunday as to the B.B.C. On weekdays the Corporation seems to have retained its hold. Since then the B.B.C. has abandoned the "Reith Sunday" and "Luxembourg has not recaptured its audience after the war"[24]. Before the war it looked like a serious menace. The Post Office did what it could by refusing the use of its telephone wires for relays from this country. Various representations were made through diplomatic channels. In 1936 the Ullswater Report condemned foreign broadcasts in the name of "unified control of broadcasting." Mr. Morrison has attacked them more recently in the name of "British broadcasting policy" (Coase, p. 115)—so far has the Reith doctrine penetrated all parties, on an issue on which Press-lords and ethical improvers see eye to eye.

DISCUSSION OF THE MONOPOLY

The most striking fact that Mr. Coase's analysis (in Part III) reveals is how quickly the B.B.C. monopoly came to be taken for granted. None of the committees doubted its necessity. In the Commons Debates of 1933 and 1936 "the monopoly . . . was not questioned" (Coase, p. 133). Occasional doubters of the cultural and ethical case were told either that they were advocating American "chaos" or that the limited number of wavelengths made monopoly essential in Great Britain.

However, an odd critic (before 1933) pointed to the German system, State-owned but with competing regions. Others invoked the British Dominions where a State-owned system was accompanied by a commercial network.

Subsequent proposals have tended to fall under one of these two heads. The approach via regional decentralisation has on the whole been favoured by those who fear the B.B.C.'s cultural monopoly. Those who advocate a commercial element in general do so because they think the B.B.C.'s entertainment standards low. A good example of the former is Professor Robson's article in "Public Enterprise" (1936).

During the war several books by ex-members of the B.B.C. appeared, "all critical of the monopoly"[25]. The *Economist*, strong supporter of the monopoly in 1926 (Coase, p. 130), published in 1944 a series of articles advocating three corporations, State-owned, co-operative and commercial. Each would be obliged to provide cultural and instructional programmes as well as light entertainment, and each would get a fixed percentage of the licence revenue, with a remainder to be allocated by the listener to the corporation he preferred. A change in the current of opinion had occurred. The 1946 Commons Debates on Broadcasting Policy were livelier than their predecessors, and were partly responsible for the decision to renew the B.B.C. Charter for five years only. The Government White Paper on Broadcasting Policy said that a "policy of regional devolution" would be followed; but "an integrated broadcasting system" remained "the only satisfactory means of ensuring that the wavelengths available are used in the best interests of the community, and that, as far as possible, every listener has a properly balanced choice of programme."[26] The *Times* and the *Manchester Guardian* have remained faithful supporters. A public opinion poll in 1946 showed (for what it is worth) that, of those who had any views, a small majority would like some commercial broadcasting, provided that non-commercial broadcasts also continued (Coase, Appendix III).

FUTURE OF THE MONOPOLY

In 1949 the Beveridge Committee was appointed to consider the future of broadcasting when the B.B.C.'s Charter expires in December, 1951. It has wide terms of reference and none of the matters discussed above is outside its scope (indeed, it also has to take into account television, at present run as an integral part of the B.B.C.). Mr. Coase does not attempt to anticipate its conclusions, and recognises that they must take account of many considerations which he has excluded. His conclusions might be rephrased as a number of questions, which it is to be hoped that the Beveridge Committee will answer for us. They are as follows:

(1) Has the "economies of large-scale" argument any more obvious relevance to broadcasting than to many other services, where its limitations have become more apparent in recent years than they used to be?

(2) Does the "wavelength" argument establish more than that the allocation of wavelengths and location of stations must be centrally controlled (by a body akin to the U.S. Federal Communications Commission)? And how far are current technical developments likely to lessen its importance?

(3) Would a system of allocating licence revenues between a number of corporations be workable[27]? Or could some latitude be given to sponsored programmes without involving us in the toils of unrestricted advertising?

(4) If it is considered that programmes should conform to certain standards or have some cultural or educational content, can this be done by laying down general rules, or retaining certain stations and hours of the day for such items? Are the assumptions of a negative answer to this question not totalitarian?

(5) What are the bearings of the argument that a monopoly is essential to maintain a fair balance in controversy? Is it an argument for monopoly, or for public control (which need not be incompatible with some measure of competition)? Is it not an argument for nationalising the Press? It is certainly the knottiest problem and any solution runs certain risks; perhaps one's answer depends on the sort of risk one prefers to undertake[28].

Let us hope in any event that these two excellent books—by Mr. Coase and Lord Reith—are having a wide circulation. They are vital parts of the evidence that the public, as well as the Beveridge Committee of Inquiry, will need to consider in forming their views about the future of the B.B.C.

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[1] "British Broadcasting: A Study in Monopoly." London School of Economics and Longmans, 1950, 206 pp. 12s. 6d.

[2] Sir Evelyn Murray was Secretary of the Post Office from 1914 to 1934. His father, Sir George Murray, was Secretary from 1899 to 1909.

[3] "Into the Wind." Hodder and Stoughton. 25s.

[4] The phrase is the Crawford Committee's.

[5] And the present Director-General of the B.B.C. (cf. Coase, p. 152).

[6] Lord Reith has never taken Mr. Baldwin's advice to "avoid logic; cultivate the hide of a rhinoceros." (Reith, p. 276.)

[7] "Broadcast over Britain" and Reith memorandum to Crawford Committee. cit. Coase, pp. 46-47.

[8] Gordon. The Public Corporation, p. 164. cit. Coase, p. 55.

[9] Critics could be ignored. "Their puny spleens and gibes fell on an impervious and indifferent B.B.C." (Reith, p. 101.) He tells us that, apart from the newspaper summary, he did not read the 1936 Commons' Debate on the Ullswater Report until the Governors told him he should. With perhaps more justification, he dislikes listener research, with its "embarrassing (sic) and gullible conclusions" (p. 524).

[10] The Company's licence contained no such prohibition, but the P.M.G. had indicated that controversy would not be to his "reasonable satisfaction." cf. Reith, p. 102, and Coase p. 62, note 46.

[11] During its course, Reith "drew up a statement of the B.B.C. case and sent it to Members of Parliament. The P.M.G. was very annoyed." (Reith, p. 106.)

[12] Reith, pp. 251, 272-273, pp. 307-309 cf. Coase, p. 146.

[13] ". . . to my great satisfaction Warren Fisher had secured Sir William McLintock's appointment as finance member." Kingsley Wood decided to add Lord Selsdon (P.M.G., 1924-29) "the most unfriendly P.M.G. there had been," (Reith, pp. 215, 219), and who also proved to be the one member of the Ullswater Committee to oppose the proposal to nationalise the relay exchanges. (Coase, pp. 84-85.)

[14] Ramsay Macdonald said she did *not* represent Labour (Reith, p. 114). She was the first of a series of women with this portmanteau function; Mrs. Hamilton, Miss Ward and Mrs. Wootton point to a well-established tradition.

[15] Reith, pp. 210, 314.

[16] Sir Ian Fraser and J. J. Mallon joined when it was enlarged in 1937. Sir Ian was earlier, and still is, one of the stoutest defenders of the B.B.C. monopoly (Coase, pp. 89, 166). Of other members in the later 1930s, Lord Reith tells us that Mr. Harold Brown was "humble-minded" (p. 233), and Mrs. Hamilton "livelier and more critical" (p. 173).

[17] Lord Reith says one of his cardinal principles was that "at most only five or six individuals were responsible directly to me" (p. 298). But later he says that the regional directors were generally "responsible . . . to me and the deputy director-general." (p. 299.)

[18] cf. M. Gorham. "Sound and Fury." Lord Reith comments sarcastically on this phase of B.B.C. activities on pp. 522-523.

[19] Mr. Gorham's book mentions an attempt to introduce some internal competition into the B.B.C. during this period, which broke down. It needs investigation.

[20] cf. THE TIMES, December 2nd, 1947, and B.B.C. Annual Report, 1947-48, p. 2: and compare Reith, p. 524.

[21] In 1950, in the North, five to six hours a day appear on average to be regionally provided. According to Dr. Lincoln Gordon, in 1937 special regional programmes were "ordinarily transmitted for three to four hours a day." (The Public Corporation, p. 208.)

[22] Coase, pp. 154-155, 168.

[23] The New Towns Committee have suggested that recent advances in radio technique might permit "large cities and towns (to) have a local broadcasting service of their own." Their Chairman was Lord Reith. (Coase, p. 171.)

[24] Fabian Research Group's evidence to Beveridge Committee (reprinted in "The Future of Broadcasting," Fabian Research Series No. 138).

[25] e.g., P. P. Eckersley, "The Power behind the Microphone," and Paul Bloomfield, "B.B.C.," both published in 1941.

[26] Cmd. 6852 of 1946, p. 6.

[27] The Fabian Group think it would. They advocate separate Corporations for Television and Overseas Broadcasting; and that in due course, another new corporation should concentrate on developing local and regional services.

[28] It is perhaps worth recalling that Mr. Churchill was more than once denied the air before the war (cf. Coase, pp. 166, 189). Lord Reith refers to the first occasion on p. 151 of his book. The second (and more important) was apparently first referred to by Mr. Bracken in the House of Commons (July 16th, 1946). Sir Ian Fraser, an ex-Governor, admitted the charge, and said that the B.B.C. took its advice about political broadcasts from the party Whips. Lord Reith does not refer to it, neither does Mr. Churchill in his war memoirs. It would be interesting to know when it occurred. Mr. Coase's reference to a Churchill protest in the House of Commons on February 22nd, 1936 (p. 189) should read 1933. It is only fair to add that the appeasers also had their grievances against the B.B.C. in the pre-war period.

Harold Laski

AN APPRECIATION BY PROFESSOR W. A. ROBSON

We have lost by the sudden and unexpected death of Harold Laski the outstanding political scientist of his generation. The wide range of his interests; his immense erudition; his eagerness to grapple with the fundamental problems of our time; the fertility of his mind; his success as a speaker with audiences of every size and kind; the brilliance of his conversation; the long list of books, articles and pamphlets which he produced; his great influence and position in the British labour movement; his renown as a university teacher: these qualities and achievements made him famous both at home and abroad.

Laski took a deep and continuous interest in public administration which showed itself both in practical and intellectual ways. He was a member of the Committee on Ministers' Powers and appended to the report a note on the judicial interpretation of statutes which has often been quoted. He sat on the Hadow Committee on Local Government Officers. He was a member of the Civil Service Arbitration Tribunal from its inception in 1937 until the time of his death. He lectured regularly on the British constitution to undergraduates at the University. He devoted the Simon Lectures which he delivered in Manchester University last February to the problem of marrying politics and administration, discussing this theme in terms of the House of Commons, the Cabinet and the Civil Service.

His principal contribution to political science lay in the realm of political ideas. His major work *A Grammar of Politics* would probably suffice to give him an assured place in the history of political ideas. He wrote 21 other books; and some political scientists are of the opinion that his early books, *The Problem of Sovereignty, Authority in the Modern State* and *Foundations of Sovereignty*—all published before he was 30 years of age—contain some of his most enduring work. I feel confident that *The American Presidency* (1940) will for long remain an unequalled study of the chief executive, written with immense vitality and with an astonishing amount of knowledge obtained from first-hand sources.

My purpose here is not, however, to evaluate his literary contributions to political science but to emphasise his abiding interest in many different aspects of public administration. The first part of *A Grammar of Politics* is devoted to political theory. The second part deals at length with the institutions of government: political, economic, judicial and international. He edited, with Sir Ivor Jennings and myself, the centenary volume *A Century of Municipal Progress 1835-1935,* which was produced under the auspices of N.A.L.G.O. His chapter on "The Committee System in Local Government" is perhaps the most illuminating essay in the book. Some of his best work is to be found in serious articles, such as that on Bureaucracy in the Encyclopaedia of the Social Sciences. This contains some of those pungent generalisations of which he was a master, that made people think about big questions in a large way. "The size of the modern state" he wrote, "tends to make its government an oligarchy of specialists, whose routine is disturbed by the occasional irruption of the benevolent amateur." Not quite accurate, you murmur? Maybe it is not. He did not intend it to be. He wanted to provoke thought, to kindle the imagination, to dispel apathy and prick the bubble of complacency, even if it led to resentment or disagreement.

Public administration remained one of Harold Laski's abiding interests which was never obliterated by his intense preoccupation with the problems of social and political theory and his frequent incursions in the forum of contemporary politics. He was a member of the Institute of Public Administration from its earliest days, and served as a co-opted member of its Council from 1924 to 1936. He often lectured for the Institute, both in London and the provinces. As recently as January, 1949, he talked to a large

audience on "The Politician and the Civil Servant." Only three days before his death he told me how much he wanted to review the forthcoming volume of the Institute: *British Government since 1918*.

His sense of the inter-relations between political ideas and the day-to-day practices of government departments never weakened. He shared with Locke, Bentham and John Stuart Mill the urge to find a philosophic basis on which a theory of the state could be founded, and then to devise a set of governmental institutions and a policy which would express that theory in practice. Harold Laski was in some ways intensely academic and theoretical, but when I asked him not long ago whether he would like to have been in Parliament, he replied: "Yes, for one day—the day when the National Insurance Act received its third reading." This showed how close he was to the realities of life.

Those who knew Harold Laski only through his challenging and often provocative political speeches could not discern the real man. In the University where he spent the greater part of his life he was beloved by all his colleagues and regarded with great affection by successive generations of students. As a teacher he had the supreme gift of making his pupils feel that whatever subject he happened to be discussing was of immense importance and had a significant bearing on our own problems—whether it was the relations of church and state in the 16th century, or Machiavelli, or Louis Napoleon's *coup d'état* or the Taff Vale case.

His kindness was continual and without limit. During 25 years I never heard him say a harsh or discouraging word to any one of the innumerable young men or women who waited eagerly outside his room or who flocked to his lectures. He gave to each of them the best of himself, unsparing of his time and strength. It was in this way that he showed his great love of humanity. His generosity was boundless and always disinterested.

He had an impish sense of humour which often led him to make highly diverting observations in an oracular manner at solemn professorial gatherings. But if he felt, rightly or wrongly, that the slightest injustice might be done, he would flash up without any humour at all. A passion for justice was the supreme driving force of his life. And this, too, was disinterested, for he was himself both happy and successful; and his life had not been beset by hardship or difficulties. There was no trace of bitterness in anything he said or did. Even his fiercest onslaughts had an objective quality which softened resentment and made it short-lived. People often differed from Harold Laski, but he seldom gave offence.

It is as a great teacher that he will be remembered and would wish to be remembered. This he knew to be his true vocation; and it was this which led him to reject the great opportunities in other walks of life which were open to a man of his remarkable abilities and gift of popular exposition.

The Consumer Councils for Gas and Electricity

By J. W. GROVE

THE Electricity Act 1947 and the Gas Act 1948 introduced a new experiment in the democratic control of public enterprise by providing for the establishment of what were to be called "Consultative Councils."

The purpose of this paper is: First, to summarise the provisions of the Acts and Statutory Instruments relating to these Councils in general, and to refer to some of the more important questions concerning the Councils which were discussed during the Debates in Parliament, and secondly, to present the results of a preliminary examination of the first twelve months' working of one of these Councils, the North-West Electricity Consultative Council, with occasional reference to its younger brother, the North-West Gas Consultative Council. This examination is based, in the main, on the official minutes of the Councils and the Secretaries' reports, though these were supplemented by discussions on particular points with the Chairmen and Secretaries themselves. No attempt has been made to draw comparisons with the working experience of the other Councils[1] and the evidence is not yet sufficient to justify more than tentative conclusions. It is believed, however, that the questions raised here will be of general applicability.

CONSTITUTION

The Consultative Councils are statutory bodies established by Sec. 7(1) of the Electricity Act of 1947, and Sec. 9(1) of the Gas Act 1948. They are to consist of not less than twenty nor more than thirty members, all appointed by the Minister. An interesting small difference in drafting between the Acts is that the Gas Act provides for a Chairman and the Electricity Act does not, the Chairman being appointed under a Statutory Instrument (898 of 1948). In the case of electricity not less than half nor more than three-fifths, and in the case of gas not less than half nor more than three-quarters of the members are to be appointed by the Minister from a panel consisting of elected members of local authorities in the area. This panel is drawn up by the Minister from nominations submitted by associations representative of local authorities (i.e., the County Councils Association, the Association of Municipal Corporations, etc.), and it appears that the Minister has consulted with the Chairmen of the Councils in making up his panel for each Council, in order to obtain a suitable panel of some fifty or so names from among the several hundreds of names submitted. Retirements, deaths and other vacancies are filled by the Minister from the next names on the panel. The remainder of the members are to be appointed by the Minister after consultation with such bodies as he thinks fit, representing commerce, industry, labour, the general interests of consumers and (in the case of electricity only), agriculture.

The interests consulted by the Minister in making these appointments included the National Association of Chambers of Commerce, the Federation of British Industries, the National Union of Manufacturers, the Parliamentary Committee of the Co-operative Congress, the National Council of Women, the National Federation of Women's Institutes, the W.V.S., the T.U.C., and in the case of electricity only, the National Farmers' Union, the Union of Agricultural Workers, and the Electrical Association for Women.

The North-West Electricity Consultative Council consists at present of 26 members (excluding the Chairman)[2], of whom 15 are "local authority" members and 11 are "other interest" members. The Gas Consultative Council consists of 25 members (excluding the Chairman) of whom 16 are "local authority" members and nine are "other interest" members. In the case of the Electricity Council, one or two of the "other interest" members are *also* local

councillors (an example of useful overlapping of categories). There are five women on the Electricity Consultative Council, and three women on the Gas Consultative Council. The "local authority" members on the Council itself, and on its District Committees (see below) are broadly representative of the various types of local authority. A number have been members or Chairmen of local authority electricity and gas committees, and the interests of these local authority members include insurance, accounting, trade, industry, engineering, and trade union organising.

The top limit on the number of local authority members who may sit on the Councils has a rather curious history. As originally introduced both Bills provided for "at least half," with no top limit. This was objected to by the Conservative Opposition in Standing Committee on the Electricity Bill, on the grounds that the clause as worded would allow the Minister to constitute a Council consisting entirely of members of local authorities. This objection led the Government to introduce an amendment "in another place," which of course was accepted by the Commons, inserting a top limit of three-fifths[5]. When the Gas Bill was introduced, the corresponding clause again omitted reference to a top limit. The Minister resisted in Standing Committee an Opposition Amendment to insert the words "nor more than three-fifths," but by the time the Bill had reached the Report Stage he was apparently willing to accept "nor more than three-quarters." Indeed, the Parliamentary Secretary, accepting the Amendment on Report, went so far as to say that it was "a very reasonable case that the Hon. Gentleman (Sir H. Lucas-Tooth) has made"[6] though the case was no different to that already made in Standing Committee.

During the Report Stage of the Electricity Bill[5], the Minister gave the following reasons for local authority representation:

(i) A general interest as representing domestic consumers.

(ii) A special interest, e.g., in the breaking up of streets, etc., and because many local authorities are themselves large consumers of gas and electricity.

The general interest as representing domestic consumers was again stressed by the Minister in Standing Committee on the Gas Bill[6] when he said that local authority members are intended to represent domestic consumers, and other members (in the main) the interests of commerce and industry.

The Constitution of the Councils was criticised during the Debates on several grounds, some of which deserve consideration. For instance, the view was advanced that the Chairman ought to be elected by the Council and not appointed by the Minister[7]. It was argued that the consumer would be more likely to get protection if this were done. The person who is Chairman is, in any case, appointed by the Minister as a member of the Council and so should enjoy his confidence; why, then, is it necessary further to appoint him as Chairman? In view of the fact that the Chairman has a seat on the Board, surely it is better for the consumer if he is elected? The Government's reply was that it *is* precisely this dual function which makes it desirable for the Chairman to be appointed—he must be an exceptionally able man since he has to sit on the Board *and* act as a liaison between the Board and the Council. A more telling argument, perhaps, and one which does not appear to have been made in the Debates, is that the Chairman is a paid member of the Board, and it would therefore be highly undesirable for his office to be filled by a member of the Council elected by the members themselves.

It is fairly obvious that the device of the dual role of the Chairman is aimed, not at reducing the Council to a mere appendage of the Board, but at providing consumer representation on the Board itself, and securing an effective working partnership between the two bodies. Whether this will, in fact, be so depends largely on the personality of the Chairman, and although it is obvious that the Minister would not appoint a known critic of the Board, it is surely reasonable to suppose that he will seek the type of person who, so far as possible, conforms to the statutory prescription (Secs. 7(2),

Electricity Act, 9(2), Gas Act): a person possessing the ability " to exercise a wide and impartial judgment."

A second main criticism made during the Debates was that the appointment of members by the Minister would leave the door open to political patronage[8]. In fact, the Chairmen of the 26 Councils (who are in many cases local councillors) are about equally divided in their political allegiance, and the Minister has made a point of seeing that, in each case, the Deputy Chairman of the Council is of the opposite political party to that of the Chairman. The Minister has also indicated that persons who have worked in the industries will not normally be appointed members. The Chairmen of the North-Western Councils are both members of the Labour Party, and the Deputy-Chairmen both Conservatives (in the case of the Gas Consultative Council, the Deputy-Chairman is a woman). The political allegiance of the members, so far as this is ascertainable (as it is in the case of the Local Authority members at least), is fairly equally divided, with, if anything, a slight Conservative bias.

Certain regulations have been made under the Acts, relating to the constitution and procedure of the Councils[9]. Under these the tenure of office for members of the Councils is the same as for members of the Boards (viz., a period to be determined by the Minister but not exceeding five years). The Minister has determined that the period of office shall, in fact, be three years, which is the same as for part-time members of the Boards. The Chairmen receive a salary in their joint capacity, but ordinary members receive only allowances to compensate for loss of earnings and to provide for travelling and subsistence. A member who is appointed as a " local authority " member remains a member of the Council only so long as he remains an elected member of a local authority in the area of the Council. All members are eligible for re-appointment.

The Minister may remove a member for continued absence of more than six months consecutively (unless for an approved reason), or if, in the Minister's opinion, he becomes unfit to continue as a member or incapable of performing his duties. This power of the Minister (to which the Chairman of the Council is also subject) is a power not, of course, confined to the Consultative Councils. It is a power which has received a great deal of criticism in its application to the public corporations generally. It is doubtful whether such public servants ought to be dismissable at the Minister's discretion alone, without appeal, and probably without the agreement of their colleagues. The absolute discretion of the Minister in this matter is dangerous, in particular in that it may lead a none-too-conscientious person to prefer his office to his duty to the public (this applies more particularly to the Chairmen, who are paid), and what is more important, it enables the Minister to prescribe obliquely what the duties of the office shall be.

District Committees

The areas served by the Consultative Councils are very large, and the Acts provide (Secs. 7(9) Electricity Act, 9(8) Gas Act) for the submission by the Councils of " schemes " for the appointment of local committees or individuals, to be their representatives in specified localities. Since the Councils have a very complex task to perform and a very wide area of jurisdiction, in both the geographical and the functional sense, it is obvious that these committees will be of considerable importance to the structure of consumer control.

The area served by the North-Western Electricity Consultative Council is about 5,000 square miles, and contains approximately 1,300,000 consumers. The Electricity Board has set up seven " sub-areas " of administration and the Consultative Council has, with the Minister's consent, constituted nine District Committees, one to each of six of these sub-areas, and three for the seventh sub-area, which is an enormous rural area with a widely scattered population. The Council called for nominations, for each District, from all local authorities, local Chambers of Commerce, the Engineering Employers' Association, the National Farmers' Union, the Union of Agricultural Workers, the Electrical Association for Women, and the British Hotels and

Restaurants Association (in view of the large number of seaside holiday-resorts in the area). A selection from this panel was made by the Chairman, assisted by those members of the Council living in each district. The Committees, as constituted, vary in size from nine to twelve members, twelve being the maximum according to the Scheme.

Members of the Council serve on the Committee for the District in which they live. According to the scheme the District Committees must meet quarterly, but are in fact meeting every second month, and it is the intention that they should move about their district from place to place for their meetings. The District Committee elects its own Chairman, but with the proviso that he must be a member of the Consultative Council itself. The term of office of members is at present one year, but will probably be extended to two years later. The N.W. Gas Consultative Council has set up four district Committees covering the 17 " groups " of undertakings into which the Gas Board has sub-divided its administration. Membership varies between 15-25. There are minor differences of detail between the two " schemes " but none of any real significance. The functions of the District Committees are specified in general terms in the Acts (Sec. 9(8) Gas Act, 7(9) Electricity Act). Dissatisfaction has been expressed by some of the local authorities that their nominees have not been selected to serve on the District Committees. This is partly due to a failure to realise that the members of the Committees (and the Council) represent all the consumers (domestic and industrial) in the District, and not merely those of their own local authorities. The Councils intend to see that in time all local authorities in the District are given an opportunity to have a nominee appointed.

Staffing

Staff (and accommodation) is provided by the Area Boards (this is a statutory requirement (Sec. 7(10) and (11) Electricity Act 1947; 9(9) and (10) Gas Act 1948). Each Council has a full-time Secretary (a trained Committee Clerk) and the part-time services of a shorthand typist, both seconded from the Boards[10]. The Secretary also acts as Secretary to each of the District Committees, which are at present without staffs. It is obvious that this not very lavish establishment will have to be increased as the volume of complaints increases, as indeed it must as the work of the Councils becomes more widely known. Accommodation for District Committee meetings is arranged by the Secretary of the Council; usually this is provided by the local authority of the town in which the District Committee has decided to meet. It was considered psychologically undesirable that the office of the Council should be in the same building as the offices of the Board, and in neither case in the North-West is this so.[11] Both Councils are accommodated in the buildings of the Manchester Corporation, the Boards being established elsewhere in the city.

FUNCTIONS

The statutory functions of the Councils are (Secs. 9(4) and (5) Gas Act 1948, Secs. 7(4) and (5) Electricity Act 1947):

(i) To consider any matter affecting the supply of gas (or electricity) in their area, including variation of tariffs, or provision of new and improved services, whether represented to them by consumers, or which they themselves consider necessary; and to report recommendations to the Area Board.

(ii) To consider and report on any matter which the Board may refer to them.

(iii) To consider the " general plans and arrangements " of the Board, of which the Board must keep them informed, and, if they think fit, to make representations to the Board thereon.

In the event of disagreement the Council may appeal from the Board direct to the Minister (in the case of gas), or to the B.E.A. (in the case of electricity). Where there is a disagreement between the Electricity Consultative Council and the B.E.A. itself as to the existence of a defect in the " general plans and arrangements " of the Electricity Board, the Council may (Sec. 7(8) Electricity Act) appeal to the

Minister. This provision (of appeal to the Minister) was inserted during the passage of the Electricity Bill and was not in the Bill as originally published. In the case of Gas, where such representations are made by a Consultative Council to the Minister, and it appears to him (after consultation with the Gas Council) that there *may be* a defect disclosed in the "general plans and arrangements" of the Board, he must refer the matter for inquiry and report to an independent person appointed by him after consultation with the Lord Chancellor (Sec. 9(7) Gas Act). There is no similar statutory provision in the case of Electricity for independent inquiry in the event of disagreement between a Board and a Consultative Council, but an undertaking was given in the House of Lords during the passage of the Electricity Bill that the Minister would, in fact, so refer a dispute.[12] The Minister, however, *decides* whether or not to refer such a dispute for impartial consideration, and his decision rests on whether or not he considers it probable that a "defect" exists. An amendment[13] which was negatived in Standing Committee on the Gas Bill sought to make the procedure mandatory. The Minister argued that: "The possibility then emerges that any trivial complaint could be so referred (i.e., to an independent inquiry), whereas the whole idea . . . was that only where the Minister thought that the representation . . . disclosed a defect in the general plans and arrangements of the Area Boards, should there be such an inquiry."

During the Second Reading of the Electricity Bill, Viscount Hitchingbrooke argued[14] that the consumer would be "powerless in the matter of tariffs," and it was strongly argued during the passage of both Bills that there ought to be set up independent tribunals with the power to fix tariffs or, at least, to approve or reject tariff schedules. The consumer protection which the Act in fact provides is the power given to the Consultative Councils to examine proposed changes in tariffs and to make representations to the Boards, and then either to the B.E.A. or the Minister (gas). Whether the special appeal procedure just outlined is intended to apply to tariffs is not entirely clear. It would seem that disputes about tariffs would be referred to an impartial inquiry if they were substantial enough to involve the question of the Boards' general policies, but not to disputes about single tariffs or groups of tariffs. It would appear from the Debates that this assumption is correct, since the reason for the undertaking given in the House of Lords (see above) on the Electricity Bill, and thus, indirectly, for Section 9(7) of the Gas Act, was a Lords' amendment to set up an Electricity Tariffs Appeal Tribunal to replace the old Electricity Commissioners. The Lord Chancellor gave the undertaking, which was to the effect that, where a disagreement arose between a Consultative Council and an Area Board on tariffs, or "on any substantial issue," and appeal by the Council to the B.E.A. failed, then appeal would lie to the Minister who would appoint an independent person to report. It was on this understanding that the Lords accepted the Commons' rejection of their amendment for a Tribunal[15].

On the other hand, it appears from the Acts that though the Consultative Councils can make representations on any matter, the B.E.A. and the Minister will only give directions to the Area Boards if they find that the representations have disclosed a defect in the "general plans and arrangements" of the Boards. Mr. Ernest Davies, M.P., challenged the appeal procedure in Debate, on the ground that it was unnecessarily cumbrous and delaying, since the final decision must in any cast rest with the Minister.

It is important to notice, with regard to the functions of the Councils, that they are not merely bodies for the collection and correction of consumers' complaints about service or quality as are the "Consumers' Councils" which have been set up for the nationalised Coal Industry. They are quite a new type of public body, as the Chairman of one of the Councils remarked at its inaugural meeting "without the advantage of experience, and with the obligation to create a tradition. . . ." It is the power of the Councils to participate in the formulation of policy and planning that

distinguishes them from the Coal Consumers' Councils.

The Councils appear to be in general agreement that complaints should only be sent to them if the local undertaking or the Board itself fails to redress them. Indeed, it has been suggested that local authorities might act as a channel for complaints in the first instance, particularly since they are, in general, much more readily accessible to the ordinary consumer than either the Council or even a District Committee. The District Committee meets only infrequently and may be many miles away. The local council office is continuously available, and the Town Clerk's Department could be a centre for the collection and forwarding of complaints.

It is of interest that, though this is not specifically provided in the statutes, both Councils have included in their Standing Orders provisions for a consumer complainant to be heard in person before either a sub-committee of the Council or before the Council itself; prior notification is to be given to the Board so that they may be represented by one or more of their officers if they so desire.

At the second meeting of the N.W. Gas Consultative Council, a complainant, a large County Borough, was heard before the Council, the grounds for complaint being the increase in the price of gas supplied by the undertaking previously under the control of that authority. The representatives of the authority maintained that, had they remained responsible they were not proposing to increase the price of gas for 1949/50, that their Price Reduction Fund was available to the Board to keep the price down, and that the Board had acted with undue haste, and without allowing the Consultative Council proper time to consider the increase. After hearing both sides, the Consultative Council asked the Board to suspend their increase pending a re-examination of the financial position of the undertaking (the hearing having revealed a disagreement about figures between both sides), and recommended the Board to seek Counsel's opinion as to whether the Price Reduction Fund (established under a Local Act) was still available for that purpose, i.e., whether the relevant clause of the Local Act was, or was not, repealed by the Gas Act 1948. (It would appear probable that it is, and that Price Reduction funds which passed to the Boards are disposable at their discretion.)

How are the statutory functions of the N.W. Electricity Consultative Council being performed? First, as to its right to information concerning the "general plans and arrangements" of the Board. The Council met for the first time on January 28th, 1949. A few days previously its members met informally to hear a preliminary statement by the Chairman of the Area Electricity Board on the Board's future development policy. At the first meeting, a statement on tariff policy was made by the Chief Commercial Officer of the Board. At the second meeting, the Council received a report from the Chief Engineer on the Board's plans for technical development and extensions to existing plant, and, at the third meeting, a report from the Board's accountant on accountancy plans and problems. At the fourth meeting, the Council considered details of the Board's hire-purchase scheme, and a statement on the standardisation of electricity supply conditions throughout the area. At the fifth meeting, the Secretary to the Board reported on the administrative organisation. At the sixth meeting, the Council heard a report on the Board's attitude to electricity supply in the proposed National Parks, and at the eighth meeting, a report on the Board's sales promotion policy. Finally, at the tenth meeting, the Divisional Controller of the British Electricity Authority reported on plant capacity and demand, and the Board's Chief Commercial Officer answered questions on simple hire schemes.

In considering the report of the Board on its sales promotion policy (eighth meeting) the Council expressed its concern that the Board had introduced a hire-purchase scheme without giving the Council adequate opportunity to express its views before the scheme was put into operation.

The Council received a large number of complaints during the year, most of them from local authorities and voluntary associations, considerably fewer coming

from individuals. In part this is due to lack of publicity from which the Councils have suffered (a fact which is commented upon below). By far the greater number of complaints arose out of the winter (Clow Committee) surcharge on tariffs, which was imposed by the Boards during the winter (October-December) quarter 1948/9, as an attempt to restrict domestic consumption. This surcharge, which had been recommended by a Committee appointed in 1948 by the Minister of Fuel and Power under the chairmanship of Sir Andrew Clow, was an increase of .35d. per unit in the domestic tariffs for the winter quarter only, to be "compensated" by a rebate of .1d. per unit in each of the three following quarters. Owing to the Board's practice of continuous meter reading something like three-quarters of a million consumers within the area of the Board received surcharged electricity accounts for periods longer, in many cases considerably longer, than the 91 winter days. This was a very real grievance, and one which it should not have been impossible to avoid (i.e., by beginning meter reading well in advance). The complaints about the "Clow" surcharge were of two types. First, as to the hardship caused by the surcharge itself, particularly in cases of low income (e.g., old age pensioners), and secondly, as to the injustice of the delay in meter reading. Typical of the complainants were a Women's Advisory Housing Council (representing a dozen women's organisations of various types), a number of Chambers of Commerce, and branches of the Women's Electrical Association.

The Council made several representations to the Board, but were eventually bound (though reluctantly) to concede the Board's argument that it was administratively impossible, in view of the very large number of individual accounts involved, to apportion the account of every consumer whose meter had not been read exactly to 91 days, and regretted their inability to get anything done. The Board promised, however, not to treat the sum overpaid as "profit" but to place it to suspense, and to use it to make future rebates. This latter it is now doing. The Council strongly resolved that the experiment should not be repeated, and this resolution was forwarded to the Minister of Fuel and Power.

A complaint which raised a general issue was that received during the year from a Miss X, who complained that her landlord was charging for electricity used in her flat in excess of the Board's tariff. The landlord's case was that the extra charge he made was for wiring up the flat and for the maintenance of fittings. The Council decided that, in this particular case, the charge the landlord was making could not be considered excessive, but, nevertheless, it gave consideration to the general problem raised—that of the legality of reselling at a profit electricity purchased from an Area Electricity Board. They were perturbed to learn that nothing in the Electricity Acts prevented this practice by landlords, an omission, incidentally, which provided a very considerable loophole for a landlord to evade the provision of the Rent Restrictions Acts and the orders of Rent Tribunals. The Council resolved that the Board should ask the Minister to consider amending legislation.

This apparently common practice was recognised at the time of the passage of the Gas Bill through Parliament. In the case of gas the tenant consumer has statutory protection (Third Schedule, para. 17, Gas Act 1948) which provides that every Area Board must fix maximum prices at which gas supplied by them may be resold, and further provides that, in the event of an infringement, the amount of the excess involved shall be recoverable at law by the person to whom the gas was resold. This paragraph of the Third Schedule to the Act was introduced by Lord Chorley as a Government amendment in the House of Lords[16]. It was not in the original Bill.

Numerous complaints about the raising of tariffs were received during the year, but the Council were unable to deal adequately with them, since the whole question of the standardisation of tariffs is under consideration at a national level by a "Retail Tariffs Committee" set up by the B.E.A. The Consultative Councils are to have an opportunity to make representations on the report of this Committee before any action is taken by

Area Boards. In general, the Council endorses the Board's policy of a regional reduction in the number of tariffs (there were on vesting day some 800 different tariffs in operation in the N.W. region alone, already reduced to about 170), and this policy, of necessity, involves some increases. Others are inevitable at the moment, in view of increased costs, particularly of coal. This does not, of course, mean that the Council should not seek for reduction through other economies when the Board has had a year or two's working.

Among other complaints received were representations from local authorities and individuals about the abolition of joint gas and electricity meter-readings, which some local authorities had adopted, and which *prima-facie* are a saving in expense and manpower. The Council was satisfied with the Board's opposition to this practice, and also to joint billing of accounts, on the grounds that it is administratively wasteful in spite of popular appearances. In the case of joint-readings, the administrative work and expense involved in the post-reading separation of figures is the most important factor, plus the fact that the sub-areas of administration set up by the two Boards, whilst serving their own individual technical requirements, do not coincide. The N.W. Gas Consultative Council has also supported the N.W. Gas Board's opposition to these practices.

It is perhaps worth noting that complaints sent to local M.P.s and referred by them to the Minister for redress, and complaints sent direct to the Minister, are in every case sent by him to the appropriate Consultative Council for them to take action, and are not handled by his Department. The Minister is not, of course, answerable to Parliament for the day-to-day administration of the Boards, so this is constitutionally quite correct. Moreover, it may be taken as evidence of the Minister's intention that the Councils should have full authority to deal with these matters. Many M.P.s now correspond with, and bring complaints direct to, the Consultative Councils. So far as can be ascertained, no matter has yet been referred to either Council by the Boards (see function (ii) above).

PUBLICITY

Perhaps one of the greatest guarantees against the potential ineffectiveness of the new Consultative Councils, which is the argument most often levelled at them, is that they should perform their functions in the light of the fullest publicity. One of their greatest difficulties at present is to become widely known to the very large number of consumers whom they are to serve. There is a potential danger that they will not attempt to meet this challenge, but will take the attitude that, if the consumer wants them, he must come and find them. The Gas and Electricity Consultative Councils in the North-West have each made contact with every local authority in the region, with every M.P. for a constituency within the region, and with the local Press. The problem of making themselves known to every individual consumer is a much more difficult one, and in this respect, the Press could be more helpful. In the bewildering and even rather frightening jungle of governmental bodies which exist to-day for his protection, the individual may be pardoned for missing one or two of the trees. To ensure that they are not missed is the first job the Councils must tackle.

The question of the admission of the public to meetings of the Councils was debated in Parliament, but it was left open to the Councils to decide for themselves. Neither the Gas nor the Electricity Consultative Council in the North-West is admitting the public at present, but they are admitting the Press[17]. *Prima facie* there is a strong case for the democratic right of public meeting. It is argued that the Councils represent the public and, therefore, their proceedings should be open. During the Committee Stage of the Gas Bill, the Minister argued [18] that there was a danger that, if the public were admitted, members of the Councils might tend to "play to the gallery." There is some substance in this argument, if it is considered that the Councils are non-elective, and therefore, members are not directly accountable for what they say. If a member of a local Council makes a "gallery-playing" speech, he may have to defend what he said at the next election. The member

of a Consultative Council who makes a thoroughly irresponsible speech, intended for the "gallery," cannot be called to account. It may not be altogether fanciful to suggest, therefore, that he may (if he is that type of person) be more likely to act with responsibility if the temptation of public meeting is not put in his way.

A much more important consideration must, however, be noted. The Councils, as has been observed, do not deal with complaints alone, but must consider policy. The intention is that they should become (as it were) part of the policy-making machinery of the Boards. The latter are, often understandably, reluctant to discuss future policy in public. Are the Councils to insist on public discussion, or are they to agree to discuss matters of policy only in General Purposes Committee (from which the Press and public are excluded)? The answer, surely, is that if they are insistent upon public discussion, the Boards will only disclose such information to the Councils as, in the Board's opinion, may safely be disclosed to the public. This will, in almost every case, be useless from the point of view of the Councils' proper function. On the other hand, there is a dangerous tendency evident already in the Councils considered here to do, not some, but nearly all of their business in General Purposes Committee. At a recent meetting of one of the Councils, for example, the Press were kept waiting for an hour and a half (which in itself did not make a good impression) whilst all the important business on the agenda was discussed in G.P. Committee, and the Press were admitted for that part of the meeting only which consisted of trivialities. The impression created by the open meeting was that the Council had nothing of importance to discuss, which was very far from being true (the Council was in fact concerned with the question of tariffs).

This is not the way to create public confidence, either in the Boards or in the Councils, and they will have to give this problem some serious thought. In general, since it is highly desirable that the Councils should be consulted at an early stage in the policy-making process, it might seem better to exclude the general public, but to admit the Press, relying upon their usual willingness to refrain from publishing "restricted" information provided the reasons are adequately explained, and to do only strictly confidential business in General Purposes Committee in accordance with the best local government practice.

On one or two occasions the Councils have had to represent to the Boards that they have not been furnished with adequate information, or that it has been supplied either at the time of, or after, its release to the general public. To some extent these instances may be oversights arising from the extreme pressure under which the Boards have been working in the early months since their formation. The task of re-organisation that the staffs of the Boards have had to perform in order to present a good account of themselves to Parliament and the nation in the very short time since vesting day has been extensive, and some lapses are probably inevitable at first.

The Standing Orders for the District Committees of both Councils under review provide that neither the public nor the Press shall be admitted to their meetings. Ostensibly, the reasons for this decision are that they are sub-committees of the main Council, and that their minutes and reports are subject to scrutiny and approval by the Council. It is probably a mistake to exclude (at any rate) the Press. The District Committees are scarcely sub-committees in the ordinary sense of the word. The Councils themselves cover far too large an area and far too many consumers to work effectively without some delegation. If consumer representation is to work, some method of making contact with the public at local levels has to be devised, and the local newspaper is one useful instrument by which this can be done. One cannot expect much local public interest in the District Electricity Committee if the public is unaware of its existence or of the work which it is doing. The question of making the minutes of the Electricity District Committees available to the Press after they have been confirmed by the Council is at present under discussion. The question of opening the

Minutes of the Council itself to public inspection has not yet been decided, but there seems to be no reason why this should not be done.

It is doubtful whether, as a matter of principle, it is desirable to regard the District Committees merely as Sub-Committees of the main Council; it might be better if they were looked upon as miniature Consultative Councils and given a substantial autonomy. The Council need scarcely feel fearful of this step since it is the Council which appoints the District Committee, and hence can call it to account, and moreover, the Council is itself represented on the District Committee by the Chairman of the Committee (and the Vice-Chairman in the case of Gas) and other members. Questions of major policy can be reserved for the Council but the District Committees themselves would have something akin to a "policy" function in that they are the counterpart at "sub-area" or "group" level of the sub-area and group management units of the Boards. The N.W. Electricity Board has agreed to its senior officials in each sub-area appearing before the District Committees to give information. Once the schemes get under weigh, there should be considerable scope for the District Committees. Indeed, it may be possible to deal with the bulk of the work of the Councils, particularly in regard to consumer complaints, at District Committee level and to reserve only the most important questions (mainly of policy) for the Consultative Council itself. It should be noted that the District Committees themselves serve very large areas and large numbers of consumers (e.g., one of the Electricity Committees in the North-West: Area—approx. 500 square miles; Number of consumers—260,000).

The Councils have an important job to do, and it is essential from the consumers' point of view that they should do it well.

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[1] There is little published material concerning the Consultative Councils except the reports contained in the 1st Annual Reports of the Area Electricity Boards (H.C.P. 337-350). There is no statutory obligation on the Electricity Councils to make a report (but it is mandatory in the case of Gas) and not all of them have yet reported.

[2] Membership of the other Electricity Councils (as originally constituted) varies between 18-27.

[3] Lords Deb. C'tee. 151, col. 106.

[4] H.C. Deb. Vol. 451, cols. 2525/6.

[5] H.C. Deb. Vol. 439, cols. 235/6.

[6] Standing C'tee "D". Session 1947/8, Vol. II, col. 380.

[7] Viscount Buckmaster. Lords Deb. Vol. 157, cols. 518/9.

[8] See espec. H.C. Deb. Vol. 439, cols. 251/4.

[9] Stat. Inst. 787/1949 (The Gas (Consultative Council) Regulations) under Sec. 9(12) Gas Act 1948; and Stat. Inst. 898/1948 (The Electricity (Consultative Councils) (Areas) Regulations) under Sec. 7(13) Electricity Act 1947.

[10] The practice seems to vary somewhat—for instance, the South Eastern Council has a part-time secretary (who is the Deputy-Secretary of the Electricity Board!) and a full-time assistant secretary. (H.C.P. 338.)

[11] Some of the Councils are housed in the offices of former electricity undertakings away from the Board, some with Sub-Area H.Q.s of the Board, and some in the H.Q.s of the Board itself.

[12] H.C. Deb. Vol. 447, col. 230.

[13] Standing Ctte. "D". Session 1947/8, Vol. II, cols. 413/415.

[14] H.C. Deb. Vol. 432, cols. 1529/30.

[15] Lords Deb. Vol. 151, cols. 1276/8.

[16] Lords Deb. Vol. 157, col. 750.

[17] From the reports so far available it appears that the London (H.C.P. 337), Eastern (H.C.P. 341) and Yorkshire (H.C.P. 346) Consultative Councils *are* admitting the public as well as the Press. The South-Eastern (H.C.P. 338), Southern (H.C.P. 339), East Midlands (H.C.P. 342) and S. Wales (H.C.P. 344) Consultative Councils are admitting only the Press. The remainder have not yet reported.

[18] Standing Cttee. "D". Session 1947/48. Vol. II, col. 402.

Delegation Schemes under the Town and Country Planning Act, 1947

By Eric C. E. Todd

IT is now almost a commonplace to state that in recent years there has been a tendency for local government functions to be transferred from the county districts to the councils of counties and county boroughs.

A first reading of the Town and Country Planning Act, 1947, might leave in the reader's mind the impression that a similar transfer of functions has taken place in the field of town and country planning.

Sec. 4(1) of the Act reads:

> "Subject to the provisions of this section, the local planning authority for the purposes of this Act shall, for each county or county borough, be the council of that county or borough."

Since the county district is not mentioned, the cursory reader might assume that the local authorities administering the 1947 Act are 145 county councils and county boroughs as compared with the 1,441 local authorities (i.e., including the non-county boroughs and county districts) who administered the Town and Country Planning Act 1932.

In actual fact the county districts, while the 1947 Act was in its Bill form, through their Associations, expressed the greatest disagreement with the attempt to deprive them of their planning functions and the Minister finally agreed to the insertion into the Bill of what is now Sec. 34 of the Act. By this Section, "The Minister may, after consultation with such local authorities or associations of local authorities as he considers appropriate, make regulations for authorising or requiring local planning authorities to delegate to the councils of county districts in their areas, with or without restrictions, any of their functions under this Part (i.e., Part III) of this Act. . . ."

The Minister has exercised this power and the result is the "Town and Country Planning (Authorisation of Delegation) Regulations 1947 (S.R. & O. No. 2499 of 1947). These regulations authorise, but do not compel, any county council, to enter into an agreement with any county district in its area, to delegate to the council of such a district any of the Part III functions of the Act. Such an agreement must be approved by the Minister.

The Part III functions for which the county council is initially responsible, but which can be delegated to the county districts by such a delegation agreement, can be summarised as follows:

(1) The consideration of applications from persons wishing to develop or change the existing use of their land. (Secs. 14 and 17.)

(2) The issuing of orders to the owners of land for the purpose of preserving trees, woodlands, or buildings of architectural or historical interest. (Secs. 28 and 29.)

(3) The consideration of applications for permission to display advertisements. (Sec. 31.)

(4) The prevention of waste-land becoming "eye-sores" through neglect on the part of the owners. (Sec. 33.)

(5) The enforcement of planning control. (Secs. 23 and 24.) Enforcement includes the employment of inspectors to keep check on unauthorised building and change of use of land. When such contraventions are discovered the local planning authority issues enforcement notices on the offenders. If the notice is not complied with and no appeal is made within the stipulated period, then the local planning authority can itself remove the offending building and recover the cost of so doing by an action for debt against the owner in the appropriate court. In the case of unauthorised "use" (as distinct from actual development, i.e., building), if this is continued after the notice has been served the local planning authority will initiate proceedings in a court of summary jurisdiction, and on conviction the offender is liable to a

fine not exceeding fifty pounds. If the unauthorised use is continued after a summary conviction, a fine not exceeding twenty pounds for each day it is continued can be imposed.

These are the functions which the county council has to handle from day to day. Any one or more of them may be delegated to the county districts by a delegation scheme which is simply an agreement between the county council and each county district to which the functions are delegated.

The present arrangements concerning delegation under the Town and Country Planning Act 1947 are of a temporary nature. Para. 2 of Circular 37 which was issued to local authorities on the same date as the making of the delegation regulations (i.e., November 21st, 1947), emphasises this fact:

> "The arrangements relate to delegation during the period before Development Plans have been prepared. Fresh considerations will need to be given to the question of delegation when a Development Plan has been approved for any area."

As will become apparent from the following discussion of three existing delegation schemes, the actual measure of autonomy which has so far been given to the district councils is very small. This can be justified in the interim period before the Development Plans have been completed. The county council must delegate cautiously and with suitable safeguards lest decisions given by the district councils should jeopardise the execution of the Development Plan on sound lines. It is to be hoped, however, that after this interim period the delegation schemes will be re-designed so as to give a much greater liberty of action and sense of responsibility to the district councils.

Circular 37 (para. 6) requires such interim delegation schemes:

(a) To give the county council sufficient control over development applications in order to ensure that the proposed Development Plan is not prejudiced.

(b) To provide machinery for dealing rapidly with applications, while making full use of local knowledge and the experience of members of the county district councils.

(c) To be acceptable both to the county council and to the county district councils.

The county council is responsible, under Part II of the Act, for preparing a Development Plan which shows on what lines it is proposed that development should take place within its area. This task cannot be delegated to the county districts. The county council must prepare the plan itself but the county districts must be consulted before the county plan is submitted to the Minister for approval.

The administrative structures of these delegation schemes made under Sec. 34 of the Act fall into obvious categories, each scheme having variations in minor points of detail according to local circumstances. Circular 37 (para. 7) adumbrates two obvious types of arrangement which the Minister considers suitable, though it is conceded that there may be other equally suitable alternatives. They are:

(1) Some measure of delegation under Sec. 34 to some or all of the county districts, subject to some such arrangement as that a member of the county planning staff may attend meetings of the planning committee of each county district, with power to refer any case to the county planning committee or one of its sub-committees.

In other words the county planning committee reserves a right, through a member of the county planning staff, to remove any particular matter from the jurisdiction of the county district planning committee.

(2) No delegation to the district councils but ample co-option on to the county planning committee. The county council has powers of co-option of persons on to its planning committee under Part II of Schedule 1 of the 1947 Act. These co-opted members might be members of district councils or of such bodies as the National Trust or the Council for Preservation of Rural England. A variation of this second type of scheme is for the county council to set up an area sub-committee to which it delegates powers

of planning control and on which the co-opted members would sit. There can, of course, be a variety of combinations of such arrangements. The example given in the circular is a scheme which involves some measure of direct delegation to the district councils, coupled with an area sub-committee of the county planning committee. Such an area sub-committee would deal with those cases (a) which are not delegated to the district councils and (b) which according to the scheme should be determined by the district councils but which for some reason the county council has removed from the jurisdiction of the district council by the exercise of its right of reserving particular cases for itself.

Delegation schemes must vary from county to county since different considerations arise. The virtue of the Act, from this point of view, is that it allows the greatest possible flexibility of administrative machinery. The Minister has maintained this flexibility by drawing the delegation regulations in terms as wide as possible.

The three delegation schemes of Middlesex, Lancashire and Cumberland will now be examined. These counties have been chosen since they each possess problems peculiar to their class of county which the variations in their respective schemes reflect. Middlesex is primarily a dormitory for London workers and has had to face the problems of suburban expansion. With a population of a quarter of a million over the two million which is estimated to be appropriate for the county, the chief task of planning is to stabilise the population and to accommodate only such a volume of industry and commerce as is appropriate for that population. Another important task is to control the rebuilding of war damage. In Lancashire industry is more important in the lives of the people than agriculture, while in Cumberland the reverse is the case.

The Lancashire and Middlesex Schemes

The Lancashire and Middlesex schemes are very similar and can be conveniently considered together. They both provide " some measure of direct delegation to the county district council, coupled with a sub-committee to deal with cases not delegated or which are referred." In both schemes there are three bodies concerned with the administration of planning functions under Part III of the Act:

(a) The county planning committee.

(b) A number of " area " or " divisional " planning committees which are sub-committees of the county planning committee.

(c) The planning committees of the district councils.

In Middlesex the County is divided into four areas, and an Area Planning Committee, composed of members of the county and district councils, is constituted in each area. Each of the districts (i.e.., the N.C.B.s, U.D.C.s and R.D.C.s) in the area sends one representative to the Area Committee, and the total number of these representatives is balanced by an equal number of members of the county planning committee. Thus in Area No. 2 (Central Middlesex), Harrow Urban District, and the non-county boroughs of Hendon, Wembley and Willesden, each send one representative to the Area Planning Committee, and the Middlesex C.C. accordingly provides four members to form an Area Committee of eight.

In Lancashire similar provisions apply. The county is divided into nineteen areas, each of which has a Divisional Committee composed of members of the county districts and the county council. Here, however, the system of representation seems to be on a population basis. The number of county council representatives in each area is roughly one half of the total number of county district representatives. Thus in Area 18, the Borough of Stretford (pop. 58,630) provides six representatives, while the Urban District of Urmston (pop. 36,920) provides four. The county council sends six, making a divisional committee of sixteen. In every division the delegation agreement, made between the C.C. and each of the county districts concerned, makes express provision for the co-option on to the Divisional Committee of a maximum of two members. This power of co-option has not been exercised to any great extent

though one division which includes a mining area has co-opted a representative of the N.C.B., and another has co-opted the Secretary of the Lancashire Branch of the C.P.R.E.[1]

The functions of these area committees fall into two main groups:

(a) They act as advisory bodies to the county planning committee during the period in which the development plan is being prepared and when it is subsequently revised. They must also carry out such functions as the county planning committee may assign to them from time to time.

(b) They deal with applications for planning permission which are considered to be of more than local importance and which are therefore removed from the jurisdiction of the district councils, i.e., "referred" applications. These applications include, *inter alia*: those which may prejudice the proposed development plan and those likely to give rise to claims for compensation.

In Lancashire it is the Divisional Committee which, with certain limitations, makes orders under Sec. 21 (revoking or modifying any permission previously given to develop land), serves enforcement notices under Secs. 23 and 24, and makes recommendations to the county planning committee in regard to Sec. 28 (orders for the preservation of trees and woodlands) and Sec. 29 (orders for the preservation of buildings of special architectural or historic interest). In Middlesex, however, the district councils themselves make these orders after prior consultation with the County Council, though the latter may always initiate such a proposal and after consultation with the district council it may require the latter to make such an order or serve such a notice.

Para. 13 of Circular 37 indicated an intention that the procedure of making applications for planning permission would be standardised so that applicants should not be confused by the existence of differing delegation arrangements. This standardisation was actually provided by Regulations made under Section 102.[2] The effect of these regulations is that a person applying for planning permission sends his application to the district council for the area to which the application relates, even though the district council may have no delegated planning powers at all.

At this stage a "sifting" process takes place. If the district council has no delegated functions under the Act, the application will be forwarded to the county council and the district council has then finished with the matter until it is called upon to deliver the decision of the county council to the applicant. Where a delegation scheme is in operation the applications for planning permission must be divided into two categories, viz.: those which can be decided by the district council and those which cannot. The way in which this "division of labour" operates can be illustrated by the Middlesex and Lancashire schemes.

In Middlesex, the district council must send a copy of the application to the County Council which decides whether the district council can deal with it or not. This naturally takes times but the applicant is protected against undue delay by the general provision of the 1947 Act that if he has not received a decision within two months of sending in his application, he can consider it has been refused and can thereupon begin to exercise his right of appeal to the Minister.

If the County Council decide that the district council cannot deal with the application it is deemed to be an "excepted application," and, as we have seen, these go to the appropriate Area Planning Committee for determination. This is not the end of it so far as the district council is concerned since the latter can send its recommendations to the Area Planning Committee. If the decision of the Area Planning Committee is contrary to these recommendations, the district council can appeal against it to the County Planning Committee within seven days. A final decision is then given by the County Planning Committee.

In the first three months after the Middlesex scheme came into operation

(November, 1948), 665 out of 2,686 applications, being "excepted applications," were referred by the County Council to the Area Planning Committees, i.e., 28.4 per cent. By January, 1950, this percentage had fallen to 11 per cent, a figure which is estimated to be the proportion of all development applications which are liable to prejudice the main planning policy of the County Council.

In Lancashire, the applications are forwarded by the district council to the Divisional Planning Officer, who, in consultation with the surveyor of the county district, decides whether or not the application is "of regional significance" or "involves principles of planning policy." In such a case the application is determined by the Divisional Committee though the district council may make such recommendations as it thinks fit directly to the Divisional Committee.

The Council Council has control even over those applications which are left to be determined by the district council in accordance with the delegation scheme. If the district council arrives at a decision which is contrary to the recommendations of the Divisional Planning Officer, the matter, accompanied by the recommendations, if any, of the district council, is referred to the Divisional Committee. In either case, if the decision of the Divisional Planning Committee is against the recommendations of the district council the latter can appeal to the County Planning Committee whose decision is final.

It is interesting to note that the applicant is always notified of the final decision by the district council; i.e., he applies to the district council and receives the decision from the district council. He may often be unaware that his application has been through the hierarchy of District Council Planning Committee, Divisional Planning Committee and County Planning Committee, before a final decision has been reached.

Both schemes can best be summarised in the words of the County Planning Officer of Middlesex, speaking of the Middlesex scheme[3]:

> "In Middlesex the County Council decided to delegate widely both because the borough and district councils have a strong tradition in planning, and because the great complexity of the county might lay it open to danger from over-concentration."

The Councils can only be said to have "delegated widely" if it is remembered that the Minister has insisted that the County Councils should maintain a firm control over development within their areas until the Development Plans are completed. As pointed out above it is to be hoped that the delegation will be even wider and freed from many of the present restrictions after this interim period has passed.

The Cumberland Scheme

The Cumberland County Council delegation scheme provides many points of contrast with the two already noted. It does not provide for area committees. It is clearly based on the first type of delegation scheme outlined in Circular 37. The Clerk of the Cumberland County Council has stated[4]:

> "It has been felt in Cumberland that the setting up of Area Committees, instead of direct delegation to County District Councils, would merely create bodies which could not be given any greater powers than are proposed for the County District Councils and which would be interposed between the County Committee and the District Authorities."

The County Planning Committee contains one representative of each of the county districts and one from the Cumberland Development Council, the C.P.R.E. and the National Trust. These representatives sit on the Control and Development Sub-Committee which handles individual applications, appeals and negotiations.

Applications for planning permission under the Cumberland delegation scheme fall into one of three categories.

(a) Those which are "excepted" from the delegation provisions and which therefore "stand referred" to the Control and Planning Sub-Committee of the County Planning Authority;

(b) Those which, under the delegation provisions, the district council can determine itself. The district council has not a free hand even in these cases, since a proviso to clause 1 of the delegation agreement (which delegates Part III functions to the district council) states:

> " Advice on the exercise of the delegated functions including advice as to the reference of any application or other matter to the Planning Authority shall be given to the District Council by the County Planning Officer or a member of his staff and advice may also be given by the County Architect County Surveyor or other appropriate officers of the Planning Authority. . . ."

If this advice is not accepted by the District Council, then the application or other matter under consideration shall "stand referred" to the Planning Authority for determination;

(c) Whether an application comes within the delegated provisions or not, if the County Planning Authority considers that the circumstances of the case require it, the application can be withheld from the district council and determined by the County Planning Authority.

In all three cases the district council has the right to be represented when the application is decided, in order to express its views.

A further limitation on the independence of the county district councils is that with certain exceptions the County Planning Officer or his staff may attend meetings of the district council when matters relating to the exercise of the delegated functions are being considered. This is also a provision of the Lancashire but not of the Middlesex scheme.

Appeals

If a person's application for planning permission is refused or granted subject to conditions by the planning authority, he has a right of appeal to the Minister under Sec. 16 of the Act. Where a delegation scheme is in operation the county district council acts as the agent of the County Council.

Section 4(2) of the Town and Country Planning (Authorisation of Delegation) Regulations 1947 provides that " any document by which any functions delegated under these regulations are exercised shall state that such functions are exercised on behalf of the local planning authority," i.e., the County Council.

The appeal of a disappointed applicant for planning permission lies against the County Council as principal and not against the county district as agent. Para. 13 of Circular 37, however, points out that there is no reason why a county council should not leave the county district council to deal with any particular appeal on their behalf if they so wish. The Middlesex delegation scheme therefore provides:

> "Appellate proceedings shall be conducted by the District Council unless the Council notifies the District Council to the contrary in any particular case of wider than local interest or the District Council so requests in which case the Council shall deal with the matter."

This means that the district council will normally present the case of the local planning authority at any local inquiry held by the Minister to consider the appeal of the applicant.

In the case of the Cumberland scheme the position is just the opposite. The County Council conducts its own case at any such inquiry unless the Clerk of the County Council agrees that the district council shall conduct it.

In the Lancashire scheme the district councils arrange the conduct of such proceedings in opposition to appeals against decisions made by them on applications for development permission, *through* the Clerk to the Divisional Committee or the Clerk to the County Council, as is appropriate. The district council in such cases still has the right to give supporting evidence when it so desires.

While the reader may feel that the delegation of planning functions to county districts is not as extensive as it might be, or may even doubt whether there is any real delegation at all, the above account will reveal that the district councils still have a part to play in the field of town and country planning. Indeed, Mr. Desmond Heap has suggested[5] that the operation of these delegation schemes

justifies a new classification of local planning authorities, i.e.: (a) Primary planning authorities—being those mentioned in Sec. 4 of the 1947 Act—the county council and the county borough, and (b) Secondary planning authorities which he describes as " . . . those local authorities who, being technically no longer local planning authorities, now find themselves caught up in the coils of planning administration and the control of development more than ever before."

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[1] In Division No. 2 (comprising the borough of Lancaster, Morecambe and Heysham, Carnforth U.D.C., and the rural districts of Lancaster and Lunesdale) there is no delegation of planning functions to the county districts; all the powers are delegated to the Divisional Planning Committee in accordance with a separate scheme.

[2] Town and Country Planning (Making of Applications) Regs. 1948. (S.I. 1948 No. 711). Subsequently revoked, but substantially re-enacted by the Town and Country Planning (General Development Order and Development Charge Applications Regulations) (S.I. 1950, No. 728).

[3] Mr. B. J. Collins, F.R.I.C.S., M.T.P.I., in an address to the National Housing and Town Planning Council, November, 1948.

[4] Mr. G. N. C. Swift, L.M.T.P.I., in an address to the same Council. April, 1948.

[5] " Local Authorities and the New Planning Law." Journal of Planning Law, 1949, at p. 602.

The Institute of Public Administration in Israel

The I.P.A.I. was founded in 1947, in the days of the British Mandate for Palestine, under the name of the Middle East College of Public Administration. It then consisted of three component units—the Jerusalem Tutorial Classes, started in 1945, the Jerusalem Diploma Class in Public Administration, all conducted in English for both Jewish and Arab students, and the Tel Aviv Tutorial Classes, conducted in Hebrew. The Institute received a Palestine Government grant and was governed by a Board consisting of four British civil servants, an American, four Arabs and four Jews.

The Jerusalem units suspended operations in 1947 and 1948 during the disorder that accompanied the end of the Mandate; but the Jerusalem Tutorial Classes were restarted in 1949 in Hebrew. The Diploma Class in Public Administration was restarted in 1950 in Tel Aviv, and it is hoped that a parallel course will be started later this year in Jerusalem. Tutorial classes are now being started in Haifa. Those in Tel Aviv have continued uninterruptedly since 1946. All courses are now given in Hebrew.

The Board of Governors has been reconstructed under the chairmanship of Dr. Walter Eytan, formerly a lecturer at the University of Oxford, and now Director-General of the Israel Ministry of Foreign Affairs. Dr. Weizmann, President of Israel, is Patron of the Institute. The Institute now receives an annual grant from the Israel Ministry of Education.

About 250 students are in training in the Institute at any one time, mostly in three months' terminal classes. The Diploma course is for 18 months, and is based on the London University Diploma in Public Administration. A nine-months' certificate course in local government was held in 1947 in Tel Aviv, and will probably be repeated in 1950-51. Some 1,200 students have now passed through the Institute, about one third being civil servants, one third local government officers and the remainder bank and public utility officials.

The Institute has a public administration library, largely in English, in part a duplicate of the library of the Organisation and Methods Branch of H.M. Treasury. The library incidentally has a complete set of "Public Administration," the only set believed to exist in Israel.

The Institute now publishes its own Hebrew quarterly of public administration under the name "Haminhal" (meaning "Administration"). The first issue appeared in the Spring of 1950, and was well received.

A number of other public bodies have applied to the Institute for advice in planning in-service training for their staff. The Anglo-Palestine Bank (which employs a staff of 600) has organised, with Institute assistance, its first advanced training course in bank administration for branch managers. Further courses are planned. The Israel Ministry of Health and the Institute have jointly organised a course for the administrators of all hospitals in Israel.

A number of outstanding administrators in Israel—in government, the army, local government and the public utilities—have been appointed Honorary Fellows of the Institute. Some of them serve as lecturers and tutors in the Institute, others contribute to the Institute's Journal. The founder and principal of the Institute is the Hon. Edwin Samuel, C.M.G., formerly a member of the Palestine Civil Service.

Book Reviews

Modern Foreign Governments

By FREDERIC A. OGG and HAROLD ZINK. (The Macmillan Co., New York). Pp. vii plus 1,004. 45s. net.

A Primer of Public Administration

By S. E. FINER. (Man and Society Series, Frederick Muller). Pp. vii plus 160. 6s. net.

To undertake to write an introductory book is in some ways to undertake a task at once more difficult and more responsible than is involved in producing an advanced study. Even in preparation, the introductory book may involve more work; for a larger field has normally to be covered in such a book, and the good short account of a wide subject is not that which exhausts a writer's knowledge but that which is based on extensive and accurate acquaintance with details and reflective selection and compression. But the writer of the introductory work has a further task, in that he must give special consideration to his public. When specialists write for specialists, questions of style and presentation can be left to look after themselves; for the writer in these circumstances knows that his work will stand or fall on its reception at the hands of a small but critical circle of readers; his business is not so much to instruct as to contribute to a common stock of knowledge; he need not concern himself with how to be interesting, for his readers are already interested, and will remain interested if it is clear that he has something to say; and, again, he need be less worried about the danger of misleading others than about the danger of misleading himself. On the other hand, the writer of an introduction must constantly ask himself: "Am I being intelligible?"; "Will I frighten readers off this subject?"; "Are the methods I use to stimulate interest also such as will encourage a critical approach?"; "Do I oversimplify?"; "Do I mislead?".

The general occasion of these, possibly platitudinous, observations is the recently very noticeable proliferation of introductions to this, that and the other. It may, of course, be good to have a considerable variety of such books, because thereby a greater range of tastes may be catered for. But it is for consideration whether in some fields (for instance, on local government) there are not now too many introductions; whether the variety is not likely to bewilder rather than to assist; above all, whether all the people who write these books really ought to do so.

In the particular cases of the two books under review, these last doubts do not arise. These books do not duplicate other books: *Modern Foreign Governments* breaks rather new ground in that it deals in one volume with the governments of Great Britain, Canada, France, Germany, Norway and Sweden, Russia, Argentine and Japan; while *A Primer of Public Administration* deals with the principles and practice, central and local, of British administration—a subject in which there is plenty of new ground to break. Again, there is no doubt about the qualifications of the writers: F. A. Ogg is Professor Emeritus of Political Science of Wisconsin University; Harold Zink, Professor of Political Science in Ohio State University; S. E. Finer (a brother of Professor Herman Finer), Professor-elect of Political Institutions in the University College of North Staffordshire. There is much useful material in these two books. Yet neither is wholly satisfactory.

Modern Foreign Governments does not, as a whole, duplicate other books, but it does duplicate much that is in other text-books in parts; for much except the recentest material it contains on most of the countries described is to be found elsewhere fairly easily. It has the merit of trying to be objective; but, whether because it is trying to be objective about so much, or whether because

it is only too easy to fall into the style of the *genre*, it fails, like so many other American text-books, to stimulate the imagination. There is too much of the impersonality of the encyclopaedia about it; the mind reels before its thousand pages and its hundreds of footnotes and references. One is not pleased, moreover, to notice that the authors' acquaintance with some of the works referred to seems to be a little sketchy. (For instance, on p. 333, note (i), where one of the books listed amongst those from which "a good deal can be gleaned" on British party organisation has nothing at all in it on the subject.) One quarrels with the relative amount of space devoted to different topics and can pick holes in details here and there; e.g., with the account of dissolution on p. 62, and the statement on p. 71 that the Lord Chancellor and the Lord President of the Council are not heads of departments. Nonetheless, the less, the book is a useful example of its kind. Students will obtain from it fair outlines of the systems of government it describes; and they will find plenty of suggestions for further reading. In view of its price they are likely to consult it in libraries rather than to possess it; but this may be a good thing: they may be less inclined to treat it as a Bible.

A Primer of Public Administration is much more difficult to discuss; but it should be discussed, because its price will let it be bought; and, since it comes in a series edited by the Vice-President of the W.E.A., and leading officials of the Oxford and Leeds University departments of Extra-Mural Studies, it is likely to be quite widely used in various kinds of adult class. Now there is a lot of ability behind this book, and on one or two topics (e.g., Treasury action on the Estimates, and regional organisation), Mr. Finer's short descriptions will be informative and helpful to quite advanced students. But in other respects the book exhibits deficiencies which are all the more irritating because of the presence of these merits. It is not, I think, unjust to characterise the defects as those arising from haste and lack of consideration of balance. Some of this is evident at a formal level (where it could easily have been remedied and, one cannot help thinking, should have been remedied by the editors). Each chapter in the book is headed by a quotation from Swift; but the book has not been given an index. Mr. Finer can give a page, publisher and date reference to a quotation from a novel; but he introduces "P.P.S.s," and "S.R.O.s" (and, a few pages further on, without explanation, Statutory Instruments), and does not tell the reader what these are. He refers to the "Select Committee *on* Estimates" and the "Select Committee *of* Estimates"; to the "Administrative *Grade*" and the "Administrative *Class*"; to (in one place) "Regional Comptrollers"; to the "Crown Procedure Act"; to the "Scottish Department of State"; and the "Comptroller's Auditor General." These are perhaps minor matters; although those being introduced to a subject are assisted if nomenclature is correct and is explained. More serious are other matters of expression. In some instances there are simple obscurities, as, e.g., on p. 56 (second paragraph, third sentence) where the reference intended in the words "The last two functions" is far from clear. In other cases there are general remarks that at first sight appear to mean something but do not bear inspection, e.g., (p. 11): "It may be deplorable that individuals do less and less and the State more and more. But a purely personal analysis of a great world trend is liable to concentrate attention on the inessential." Other expressions contain or imply doubtful but unexplained generalisations or are just misleading, e.g. (p. 73): "The regional level is the lowest level in the administrative process"; (p. 113): Civil Service examination papers "are set and marked by the Civil Service Commission." I stress these points because Mr. Finer is so well-informed and clear in other passages that he is liable to carry conviction where he ought not to carry it as well as where he ought to. And this applies not only to isolated passages but also to the general tone of the book and the broader sweeps of its arguments. Book One, Chapter One, begins with the words: "The first half of the twentieth century has witnessed an administrative revolution"; and this theme is developed with, I am sorry to say, the aid of italics and

exclamation marks, and by reference to "the rise of organised labour," centralisation of capital, sub-division of labour, and a phenomenon called "the shrinkage of administrative space." Not only is the exposition excitable but the reader is not really given any historical or constitutional perspective; and this is a serious matter when the next Chapter attacks the Separation of Powers. An assessment of the merits of the arguments Mr. Finer uses at this point must call for more sophistication than should be presupposed in the majority of the readers for whom the book is intended. Such readers, indeed, will probably be led by these arguments to a ready acceptance of a phrase introduced by Mr. Finer in the next Chapter: "The rise of Administrative Leadership" (p. 26). But in fact—and this is why it is all to be regretted—they are likely to be foxed as to Mr. Finer's meaning; for it turns out that he is only talking about "the move from Parliamentary to Cabinet government." He is not really a managerial revolutionary, or a great centraliser or even a great co-ordinator: he is even willing to see the sense in much of the British administrative practice of letting well alone. But he constantly plays this trick of coming in like a lion and going out like a lamb. For instance, on p. 65, "... the Cabinet acts largely as a court of appeal settling inter-departmental disputes. This argues a lack of co-ordinating machinery lower down in the hierarchy"; but when it comes to the bit it appears that Mr. Finer thinks it argues nothing of the sort. And in more than one place (e.g., on Treasury control) he leaves the reader in doubt as to what it is he does think. This may be a useful book for the critical: it will not be a useful book for the receptive and uncritical.

WILFRID HARRISON,

Local Government in the Colonies

REPORT TO THE FABIAN SOCIETY. Edited by Rita Hinden, London, 1950. (Allen & Unwin), 16s.

PEOPLE should not publish books about "the Colonies"; for if they do they must make generalisations (in the field of local government for example) which will cover the Municipality of Singapore and a tribe living on the very fringe of civilisation; and this is not worth doing. It is as difficult for the reviewer as the author, for having quarrelled with some conclusion which appears to him to make nonsense in the Kikuyu Reserve he suddenly realises that it would probably be the greatest good sense in Kingston, Jamaica.

Nevertheless, local government having been so high on the colonial agenda in recent years, a book of this comprehensive title and purpose should be more than ordinarily welcome. This Report, though welcome, is not what one had hoped for. It is admittedly handicapped by an eighteen months' delay in publication, which must have been exasperating for its sponsors, but it is doubtful whether a book of this general design could ever have achieved the purpose, stated in the Introduction, of bringing home the problems of local government to the colonial reader, who is, by inference, largely unaware of them. It is, in short, ill-balanced.

The first of its three Sections sets out to discuss local government in philosophical terms, to describe the development of English principles and something of our practice, and to link all this with the colonial situation to-day. Here, surely, is material for a valuable book which would have been widely read by British and colonial administrators and students. But we are given only three slight chapters of 34 pages in all, followed by a very solid Section five times this length, in which material about eight individual territories is analysed and presented in detail. But the territorial studies are not used to illustrate the principles to which we have been briefly introduced. Indeed, the two Sections have separate existences; one whets the appetite of the general reader, the other satisfies the curiosity of the student.

The opening Section is done authoritatively and well, but if the Report *is* in the main addressed to the overseas reader, it hardly achieves its purpose. For example, it is said that the system we have in this country to-day has only been seriously tried out for about 25 years, and that therefore we must expect growing pains. But an important thing for the colonial reader to realise, and he would not realise it from this chapter, is that during these 25 years we have worked with a structure fashioned in Victorian days, and that the root of many of our problems is that functions have altered whereas boundaries, mostly, have not. Although a good deal is said about centralisation and the transfer of powers to the larger authorities, no hint is given that an overhaul of structure has been seriously examined. The Boundary Commission's 1947 Report could well have been mentioned. These and other important considerations could only have been properly presented (to the colonial reader) if the authors of this Section had had a far greater share of the whole Report.

Having dealt too briefly with ideas, the Report goes on to deal at too great length with facts. It is especially regrettable that this second Section (" The Situation in Individual Territories ") should carry the main burden of the Report—nearly three-quarters of it—since although it contains its most careful work it is bound in its very nature to " date." The Report appears to have gone to press in the autumn of 1948, and it is no fault of the authors that the chapter on the Gold Coast was completed before the Coussey Report, and that on the Sudan before Dr. Marshall's investigations. But the value of these chapters is obviously lessened. Events now move so rapidly in the constitutional field that " the present situation " can hardly be pinned within the covers of a full-length book. Nevertheless, this long Section is a valuable record and source of reference for the student; it was imaginative to include Mauritius and the Anglo-Egyptian Sudan, the first because it is usually neglected in colonial writings, the second because it is a richer field for study than many territories properly called colonial.

Many readers will regret that a Far Eastern territory was not included, but it would have been difficult to choose any but Malaya, and the time for that is clearly not opportune. Accepting (a little unwillingly) the method of full-length studies of a few, rather than reference by way of illustration to many, the selection could hardly have been bettered, viz., Jamaica, British Guiana, Mauritius, Gold Coast, Kenya, Tanganyika, Northern Rhodesia and Anglo-Egyptian Sudan.

There is, however, a third, and important, Section of summary and recommendations, and here the Report touches on—and in some cases gets to grips with — important practical questions. In discussing central control, finance, the size of local authorities and problems of election and representation, one begins to feel the grip of interest, and again a fuller treatment would have been welcome. On the last-mentioned point the author himself warms up, for having assured us that he will merely present the pros and cons of a delicate case, he fails completely to disguise his own belief that traditional ways are a nuisance, which must be tolerated for the time being, until democratic elections can take their place. If only he had at this point discussed what democratic elections might mean to an illiterate peasant living in tribal society, he would have been assured of the close attention of District Officers. Unfortunately the question is being largely ignored under the pressure of constitution making. A politically conscious working class and a small professional class, both of the 20th century, live side by side in Africa with peasant masses roughly like those of medieval Europe. The former understand something of democracy and hanker for it, but they can hardly practice it exclusively amongst themselves, for they are not many; on the other hand tribal society, even in decay, does not readily blossom into the forms of western democracy. These things take time.

If one may digress, it is not only in this Report that it is apt to be assumed (a) that British local government started in the 1830's, (b) that local government in the Colonies is only starting now. But Lord Lugard's theory in Africa forty years ago was that a vast territory like Nigeria could not be governed from the centre and that local government must

come first. The form this took, of indirect rule through local notables, would naturally not be acceptable to a 20th century Fabian, but Englishmen of earlier centuries were familiar with it, and it is not unfair to trace our development from the 14th rather than the 19th century if comparisons are to be made. Moreover, as the Report itself reminds us, local government in the absence of traditional chiefs dates from 1839 in the West Indies and—more significantly—from 1924 in Kenya. The orderly and consistent development of Local Native Councils in Kenya from crude beginnings twenty-five years ago, to the African Councils of to-day is apt to be obscured by the headier controversies of that most controversial country. Admittedly little of this could be described as "democratic" or "responsible"; but how much local government in Britain to-day is responsible, in the sense of being independent of control?

To return—the Report is stimulating on a number of these questions, but on others—for example in its recommendation of Central Local Government Boards—it slips back into a rather hurried dogmatism. In Eastern Nigeria, for instance, this question has been deliberated far more fully and objectively, and a different conclusion has been reached.

One returns to the point that a fuller discussion of universal principles and of British practice, each related to the circumstances of undeveloped territories, and illustrated from British colonial sources, would have given us a more satisfying study, and a better foundation for an analysis of present-day problems in British dependences. As it is one is left with the impression that individual contributors have given the Report much thought and care; but that the sponsors did not so much *plan* the book as take what came and put it together. It is well worth reading for some of its component parts, but it does not fill the gap in colonial literature to which the Editor rightly draws attention.

Having been thoroughly captious on major matters, one hesitates to end on a carping note in what, alas, may be considered a minor one. But great violence is done to the English language, especially in the third Section, and it is not always easy to follow the path of argument through the obstructing thickets of words. For instance, when it is desired to say that people have tried to determine the best size for a local authority the Report tells us that "there has been experimentation in discovering the optimum unit of local government." This is a small though prickly plant. Many of the sentences are as jungle creepers from the tropical colonies themselves.

R. E. WRAITH.

Industrial Peace in Our Time

By HUBERT SOMERVELL. (Allen and Unwin). London, 1950. pp. 224. 15s.

PLANS for a brave new industrial world are not unknown. If we had to guess the name of a scheme to give us a wages policy, to help to overcome the trade cycle, under which the worker is a partner in industry with guaranteed security, and "the defence of the worker's standard of living and the productive efficiency of the enterprise are integrated into a single purpose," our first choice might be—socialism. Mr Somervell, however, is no socialist; his system is Federal Share Production. He argues that the remuneration of workers is closely related to the value added in production by the establishment for which they work, regardless of the money-rate which collective bargaining seeks to impose. He produces a good many figures to support this thesis, which is not unacceptable; but his conclusions from it are novel. The source of industrial unrest is the necessarily unsuccessful attempt of workers or employers to stay the operation of this "natural" law; and the remedy is to fix the remuneration of labour as a proportion of the value added, thus recognising labour as a partner in industry, not by sharing ownership of the *means* of production, but by sharing

ownership of the product itself with the other partners—management and capital. All but the youngest workers are to have permanent status as partners in the product; these are to work for a fixed wage, and to suffer any unemployment and job-seeking there may be, since they are most able to bear it. Management is to be drawn into the scheme, trade unions are to become *Work Share Unions,* based on the establishment, and organisation on a larger scale is to be by federation only. The scheme is also to bring the worker into direct relationship with the consumer, who determines price, and would therefore determine the workers' earnings, and be, in fact, his employer.

There is here no wages policy in the accepted sense, no method of determining the share of labour in the national income, no method of dividing that share between industries, no means of improving the income of the lowest paid while maintaining differentials. The prosperity of each undertaking is to be determined on the market (or by the government), and Mr. Somervell's proposal is concerned only with the division within the undertaking of the value added by that undertaking; the workers' share in that added value may be divided amongst them on some piece-work or point-rating system.

It seems that Mr. Somervell wishes to apply his scheme to nationalised industry, but he does not say whether he wishes it applied to each industry as a whole, or to each unit of production. Since he is a confirmed federalist the latter seems probable (for if the transport worker's wage varied with the value added by the Transport Commission, the spur would not be very sharp), but it would raise grave accounting problems. What would be the unit chosen in British Railways, and how would the value added by it be separated out from the total receipts? A return from the national minimum wage in the coal industry to wages varying with the profitability of each colliery does not recommend itself to anyone with a knowledge of the history of the industry as a means of establishing industrial peace.

The civil servant and local authority employee are also neglected. The value added by their undertakings can be determined only in a costing sense, that is on the basis of the wages and salaries already paid. Mr. Somervell's proposal that the non-industrial worker should be paid on a sliding scale related to " a number of industry-wide indices " can hardly have been seriously considered. Is the payment of the Corporation dustman to be determined by the price and output of coal or engineering products, and to bear no relation to the emptying of bins? Is this a means of integrating the dustman in *his* enterprise? A wages policy must include the employees of the government, local authorities, and nationalised industries as well as workers in private industry, of whom Mr. Somervell is clearly thinking.

Mr. Somervell can point to the undoubted success of the Werner-Bush plan —a scheme similar to his own—in achieving good industrial relations in several establishments in the U.S.A., but it must be noted that the main experiment was in a highly profitable company, and there are profitable concerns in this country in which relations are excellent and the co-operation of the workers fostered by sympathetic treatment, by joint consultation and by bonus systems, if not by Federal Share Production; and that the experiment was in the boot and shoe industry. We have no evidence that the plan would succeed—nor indeed do we know how it could be introduced—in the London docks.

Mr. Somervell does not make clear by what means Federal Share Production is to be established. Presumably the initiative must lie with employers (who are to be convinced by his message), and must be encouraged by the government. He does, however, tell us what must happen before it is established. Our present method of industrial negotiation must go, and our trade unions must be broken up into Work Share Unions. Here Mr. Somervell is prepared to use coercion—by the introduction of legislation on the U.S. model for the determination of bargaining rights. Although he describes Britain as over-unionised, Mr. Somervell disclaims any desire to " disintegrate the strength of the whole Movement," and indeed some of his proposals, such

as the joint control of undistributed profits under Federal Share Production, are highly favourable to the workers. To propose, however, that the workers should fling down their defences (even if, as he suggests, the unions do not give as much protection as they suppose), so that Federal Share Production may become *possible* is certainly silly, and perhaps dangerous.

Those who are genuinely concerned with the need for a rationalisation of wages in British industry, and for methods of fostering good industrial relations, will continue to give careful attention to any proposals that are made, but it is to be hoped that the next comer will do better than this.

H. CLEGG.

Book Notes

BRIDGES, SIR EDWARD: Portrait of a Profession—The Civil Service Tradition. The Rede Lecture for 1950. (C.U.P.) pp. 33. 1s. 6d.

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STRUTHERS, A. M.: Measuring bad behaviour: an analysis of criminal statistics. pp. 19. 1950. (National Council of Social Service, 1s.)

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WORLD HEALTH ORGANISATION: Annual report of the Director-General to the World Nations, 1949. pp. viii, 112. 3 maps, charts, 1950. *Geneva.*

The following official publications issued by H.M.S.O. are recommended as being of particular interest to those engaged in, or studying, public administration. The documents are available for reference in the Library of the Institute:—

Board of Trade.

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Reports of the Permanent Members of the Transport Tribunal, on the applications of the British Transport Commission for authorisation of additional charges. 1950. 6d.

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Describes several forms of procedure known from experience to have useful applications with a sufficiently wide choice to meet most situations.

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